

Also, resolutions of the National Association of Agricultural Implement and Vehicle Manufacturers, Chicago, Ill., favoring legislation in regard to irrigation of public lands, surveys, etc.—to the Committee on Appropriations.

Also, resolutions of the Grocers and Importers' Exchange and Quaker City Chapter, Daughters of the American Revolution, Philadelphia, Pa., in favor of legislation transferring the present mint building to the city of Philadelphia—to the Committee on Public Buildings and Grounds.

Also, petition of the A. Colburn Company, of Philadelphia, Pa., in behalf of the pure-food bill—to the Committee on Agriculture.

## SENATE.

SATURDAY, January 5, 1901.

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.  
The Journal of yesterday's proceedings was read and approved.

### CONSULATE AT NIUCHWANG, CHINA.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, relative to an appropriation of a salary of \$3,000 for a consulate at Niuchwang, China; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

### PETITIONS AND MEMORIALS.

Mr. DEBOE presented a petition of sundry citizens of Kentucky, praying for the adoption of an amendment to the Constitution and to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of sundry business firms of Hopkinsville, Ky., praying for the repeal of the revenue tax on checks, telegrams, contracts of sale, etc.; which was referred to the Committee on Finance.

He also presented a petition of sundry citizens of Kentucky, praying for the enactment of legislation giving relief to certain State militia; which was referred to the Committee on Military Affairs.

Mr. DOLLIVER presented a memorial of the Retail Grocers' Protective Association of Burlington, Iowa, remonstrating against the passage of the so-called parcels-post bill; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry citizens of Danbury, Iowa, praying for the repeal of the present bankruptcy law; which was referred to the Committee on the Judiciary.

He also presented a petition of the First National Bank, the National State Bank, and the Henry County Savings Bank, all of Mount Pleasant, in the State of Iowa, praying for the repeal of the revenue tax on the capital and surplus of banks; which was referred to the Committee on Finance.

He also presented a petition of sundry business firms of Dubuque, Iowa, praying for the repeal of the duty on hides; which was referred to the Committee on Finance.

He also presented the petition of S. A. Hewling and sundry other citizens of Webster City, Iowa, praying for the enactment of a graded service-pension bill; which was referred to the Committee on Pensions.

He also presented a petition of the Iowa State Veterinary Association, praying for the adoption of the proposed amendment to the Army reorganization bill relating to veterinarians in the Army; which was ordered to lie on the table.

He also presented petitions of the congregations of the Presbyterian Church of Mount Pleasant, the Methodist Episcopal Church of Whatcheer, and of the Woman's Christian Temperance Union of Nevada, all in the State of Iowa, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Army canteens; which were ordered to lie on the table.

He also presented the petitions of Richard Kapler and sundry other citizens of Cresco, H. Hendrickson and sundry other citizens of Audubon County, John Dubner and sundry other citizens of Lee County, Ole Peterson and sundry other citizens of Fredsville, George Z. Smith and sundry other citizens of Madison County, Josiah Standing and sundry other citizens of Linn County, Albert Ellgin and sundry other citizens of Worth County, William Lorgenfrey and sundry other citizens of Durant, and of E. Rodenberger and sundry other citizens of Blackhawk County, all in the State of Iowa, praying for the enactment of the so-called Grout bill, to regulate the manufacture and sale of oleomargarine; which were referred to the Committee on Agriculture and Forestry.

He also presented the petitions of Federal Labor Union No. 7310, American Federation of Labor, of Walsh; of the Trades and Labor Assembly of Des Moines; of the Federation of Labor of Cedar Rapids; of the Trades and Labor Assembly of Ottumwa,

and of sundry citizens of Ottumwa, all in the State of Iowa, praying for the enactment of legislation to regulate the hours of daily work of laborers and mechanics; which were referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of Garrison County, Mount Vernon, Jefferson, Middleton, Birmingham, and of the congregation of the First Westminster Presbyterian Church of Keokuk, all in the State of Iowa, praying for the enactment of legislation to prohibit the sale of intoxicating liquors to native races in Africa; which were referred to the Committee on Foreign Relations.

Mr. SPOONER presented a petition of the congregation of the First Methodist Episcopal Church of Waupaca, Wis., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Army canteens; which was ordered to lie on the table.

He also presented the petition of J. W. Barry and sundry other citizens of Phillips, Wis., praying for the enactment of legislation to prohibit the sale of intoxicating liquors to native races in Africa; which was referred to the Committee on Foreign Relations.

Mr. FAIRBANKS presented a petition of the Hendricks-Vance Company and 12 other business firms of Indianapolis, Ind., praying for the repeal of the duty on hides; which was referred to the Committee on Finance.

He also presented the petition of Frederick Thum and 32 other citizens of Harrison County, Ind., and the petition of Edward Maidlow and 33 other citizens of Vanderburg County, Ind., praying for the enactment of the so-called Grout bill, to regulate the manufacture and sale of oleomargarine; which were referred to the Committee on Agriculture and Forestry.

Mr. THURSTON presented a petition of the faculty of the Industrial College of the University of Nebraska, Lincoln, Nebr., praying for the establishment of a bureau of weights and measures with a view to securing uniformity in standards and measuring instruments for scientific purposes; which was referred to the Committee on Manufactures.

He also presented a petition of sundry citizens of Valentine, Nebr., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Army canteens; which was ordered to lie on the table.

Mr. COCKRELL presented a petition of the Mackey Shoe Company and sundry other business firms of Sedalia, Mo., praying for the repeal of the duty on hides; which was referred to the Committee on Finance.

He also presented a petition of the Clearing House Association of Kansas City, Mo., praying for the repeal of the revenue tax on checks, telegrams, contracts of sales, etc.; which was referred to the Committee on Finance.

He also presented a petition of the Great Atlantic and Pacific Tea Company and sundry other wholesale and retail grocers in the United States, praying for the repeal of the duty on tea; which was referred to the Committee on Finance.

He also presented the petition of William Culman, representing the domestic wine interests of the United States, and of Henry E. G. Luyties, representing the wine importers of the United States, praying for the repeal of the stamp tax on domestic and foreign wines; which was referred to the Committee on Finance.

Mr. PENROSE presented a petition of the Commercial Exchange of Philadelphia, Pa., praying for the ratification of the so-called Hay-Pauncefote treaty; which was ordered to lie on the table.

He also presented a petition of the Hermon Christian Endeavor Society, of Frankford, Pa., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Army canteens; which was ordered to lie on the table.

He also presented a petition of 57 citizens of Pittsburg, Pa., and a petition of 51 citizens of Wilkesbarre, Pa., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented a petition of the Manufacturers' Club of Philadelphia, Pa., praying for the laying of a Government cable to the new island possessions of the United States; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Trades League of Philadelphia, Pa., praying for the repeal of certain portions of Schedules A and B of the war-revenue law; which was referred to the Committee on Finance.

He also presented petitions of the Central Presbyterian Church of Allegheny; the Mount Washington Presbyterian Church, of Pittsburg; the General Assembly of the Presbyterian Church of Pittsburg, and of sundry citizens of Allegheny, all in the State of Pennsylvania, praying for the enactment of legislation to prohibit the sale of intoxicating liquors to native races in Africa; which were referred to the Committee on Foreign Relations.

Mr. FRYE presented a petition of the Central Labor Union of Biddeford and Saco, in the State of Maine, praying for the enactment of legislation to regulate the hours of daily service of

laborers and mechanics; which was referred to the Committee on Education and Labor.

He also presented a petition of the congregation of the First Presbyterian Church of Garfield, N. Y., praying for the enactment of legislation to prohibit the sale of intoxicating liquors to native races in Africa; which was referred to the Committee on Foreign Relations.

He also presented a petition of the faculty of the Industrial College of the University of Nebraska, praying for the establishment of a bureau of weights and measures; which was referred to the Committee on Commerce.

He also presented a petition of the Great Atlantic and Pacific Tea Company and sundry other wholesale and retail grocers of the United States, praying for the repeal of the duty on tea; which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens and associations of Washington City, remonstrating against the enactment of legislation granting to the Baltimore and Potomac Railroad Company certain public lands; which was referred to the Committee on the District of Columbia.

#### REPORTS OF COMMITTEES.

Mr. SHOUP, from the Committee on Military Affairs, to whom was referred the joint resolution (S. R. 134) relating to leaves of absence granted officers of the Army, reported it with an amendment, and submitted a report thereon.

Mr. VEST, from the Committee on Commerce, to whom was referred the bill (S. 5014) to authorize the Fourth Pool Connecting Railroad Company to construct and maintain a bridge across the Monongahela River, reported it with amendments.

#### THE MILITARY ESTABLISHMENT.

Mr. SEWELL. I am directed by the Committee on Military Affairs, to whom were referred the amendments intended to be proposed by the Senator from South Dakota [Mr. PETTIGREW] to the bill (S. 4300) to increase the efficiency of the military establishment of the United States, to report them back adversely.

Mr. PETTIGREW. Let the amendments be read.

The Secretary read the amendments, as follows:

Strike out all provisions in this bill which place an age limit against the appointment of meritorious volunteers to positions in the staff and line of the Regular Army, and add the following at end of bill:

*"It is further provided, That one-third of the original vacancies created by this act, in all grades, from colonel down to second lieutenant, in both staff and line, shall be filled by selection from the officers of volunteers who have been commissioned in their respective staff corps or arm of service since April 21, 1898. The remaining two-thirds of original vacancies created by this act to be filled by selection from the officers of the Regular Army."*

Mr. PETTIGREW. I ask that the amendments may lie upon the table, so that I can call them up and offer them to the bill at the proper time.

Mr. SEWELL. There is no objection to that course.

The PRESIDENT pro tempore. Without objection, the amendments will lie on the table, with the adverse report of the committee.

#### BILLS INTRODUCED.

Mr. NELSON introduced a bill (S. 5392) granting a pension to Ellen Hicks; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5393) granting an increase of pension to Joseph W. Burch; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULBERSON introduced a bill (S. 5394) to authorize the Paris, Choctaw and Little Rock Railway Company to construct and maintain a bridge across Red River, and to construct and operate a line of railway, with telegraph and telephone lines, across the Indian Territory, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SEWELL introduced a bill (S. 5395) to authorize the United New Jersey Railroad and Canal Company and the Philadelphia and Trenton Railroad Company, or their successors, to construct and maintain a bridge across the Delaware River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. KENNEY introduced a bill (S. 5396) granting a pension to Ephraim Jefferson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRYE introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5397) granting a pension to Charity McKenney;

A bill (S. 5398) granting an increase of pension to Samuel H. Pillsbury; and

A bill (S. 5399) granting an increase of pension to Charles H. Smith.

Mr. BATE introduced a bill (S. 5400) granting a pension to Martin Dismukes; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FAIRBANKS introduced a bill (S. 5401) granting a pension to Scottie E. McClure; which was read twice by its title, and referred to the Committee on Pensions.

Mr. COCKRELL introduced a bill (S. 5402) granting a pension to Sarah McCord; which was read twice by its title.

Mr. COCKRELL. To accompany the bill I present the petition of Sarah McCord, widow of Marcus D. L. McCord, of Capt. Scott Terry's Company, Tennessee Militia, Indian wars, together with the affidavits of A. J. Ponder, Thomas Mabrey, and David B. Young, and letters from the Pension Office and War Department. I move that the bill and accompanying papers be referred to the Committee on Pensions.

The motion was agreed to.

Mr. MASON introduced a bill (S. 5403) for relief of George C. Ellison; which was read twice by its title, and referred to the Committee on Claims.

Mr. QUARLES introduced a bill (S. 5404) to extend the privileges provided by an act entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods, and for other purposes," approved June 10, 1880, as amended; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SHOUP introduced a bill (S. 5405) granting an increase of pension to John H. Taylor; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BACON introduced a bill (S. 5406) to amend section 3296, Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Finance.

He also introduced a bill (S. 5407) to amend section 19 of chapter 252, 29 Statutes at Large, approved May 28, 1896; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5408) granting a pension to Eleanor M. Laise;

A bill (S. 5409) granting an increase of pension to John W. Phillips;

A bill (S. 5410) granting an increase of pension to George M. Emery; and

A bill (S. 5411) granting an increase of pension to William S. Hosack.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Military Affairs:

A bill (S. 5412) for the relief of Joseph M. Reed;

A bill (S. 5413) to correct the military record of Samuel T. Morris; and

A bill (S. 5414) to correct the military record of Thomas W. Miller.

#### AMENDMENTS TO APPROPRIATION BILLS.

Mr. TALIAFERRO submitted an amendment proposing to appropriate \$250,000 for improving Biscayne Bay, Florida, intended to be proposed by him to the river and harbor appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. PETTIGREW submitted an amendment authorizing the disbursing officers of the Treasury to pay to the trustee, legal representatives, or assigns of Eli Ayres \$155,200 as a final settlement for any claim against the United States for certain land conveyed to him and held by the Chickasaw Indians, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. PENROSE submitted an amendment proposing to appropriate \$537,007.20 to enable the Secretary of the Interior to carry out the agreement made on October 24, 1900, by United States Indian Inspector James McLaughlin relative to the Indians of the Klamath Agency, in the State of Oregon, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### PENSIONING OF EX-PRISONERS.

Mr. PENROSE submitted an amendment intended to be proposed by him to the bill (S. 5055) granting pensions to soldiers and sailors confined in so-called Confederate prisons; which was referred to the Committee on Pensions, and ordered to be printed.

#### PROMOTION AND RETIREMENT OF OFFICERS.

Mr. PENROSE submitted an amendment intended to be proposed by him to the bill (S. 1324) providing for the promotion and retirement of officers of the Army; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### THE MILITARY ESTABLISHMENT.

Mr. PENROSE submitted an amendment intended to be proposed by him to the bill (S. 4300) to increase the efficiency of the military establishment of the United States; which was referred



to the Committee on Military Affairs, and ordered to be printed, as follows:

After section 41 insert the following:

"SEC. 42. That the distinctive badges adopted by military societies of men 'who served in the armies and navies of the United States during the Spanish-American war and the incident insurrection in the Philippines' may be worn upon all occasions of ceremony by officers and men of the Army and Navy of the United States who are members of said organizations in their own right."

REPORT OF ABRAHAM L. LAWSHE.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution submitted by Mr. PETTIGREW on the 4th instant, as follows:

*Resolved.* That the Senate hereby expresses its condemnation of the refusal of the Secretary of War, under whatever influence, to send to the Senate copies of papers called for by its resolution of the 19th of December, 1900, requesting the Secretary of War to send to the Senate the report of Abraham L. Lawshe in relation to the receipts and expenditures in Cuba, as in violation of his official duty and subversive of the fundamental principles of the Government and of a good administration thereof.

Mr. PETTIGREW. I should like to have the resolution go over until Monday next, without losing its place.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent that the resolution may retain its place until Monday morning. Is there objection? The Chair hears none, and it is so ordered.

PAYMENTS TO SISSETON AND WAHPETON INDIANS.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution submitted by Mr. PETTIGREW on the 3d instant, as follows:

*Resolved.* That the Secretary of the Interior be, and is hereby, directed to send to the Senate a copy of all recommendations, requests, and papers on file in relation to the payment of money belonging to the Sisseton and Wahpeton Indians to said Indians since November 6, 1900, and to inform the Senate whether he informed said Indians, or any of them, or any other person, previous to November 6 that he would make payment after that date.

The PRESIDENT pro tempore. Will the Senate agree to the resolution?

Mr. SPOONER. I have no objection to the portion of the resolution which calls for copies of papers and documents, but I doubt the propriety of calling upon a Cabinet officer to state whether he did or did not tell somebody that he would make payment after a certain date.

Mr. PETTIGREW. I suppose that would be a matter of public record only.

Mr. SPOONER. It is not treated as a matter of public record. It is not a call for correspondence.

Mr. PETTIGREW. I have no objection. All I aimed at was to get the public record.

Mr. SPOONER. Let that part be stricken out.

Mr. PETTIGREW. I desire to have the resolution so worded that whatever may be there in that connection, of record, shall come.

Mr. SPOONER. I have no objection to the correspondence on record in the office on the subject, but to ask a Cabinet officer whether he told a man to do this or to do that at a certain date is certainly not the proper thing.

Mr. PETTIGREW. It certainly would not do any harm.

Mr. SPOONER. It is not a good precedent. If the Senate wants to investigate the Cabinet officer it can bring him before a committee and put questions to him and let him make his explanation; but to put a specific question to a Cabinet officer in that way, as if you were taking his deposition, is hardly the thing, I think.

Mr. PETTIGREW. I will ask leave to amend the resolution so as to have him state whether he informed any correspondent in writing.

Mr. HOAR. Let the resolution be read.

Mr. ALDRICH. I think the first part of the resolution covers that.

Mr. PETTIGREW. I think so. I simply want the record.

Mr. SPOONER. I am willing that any correspondence on record in the office on the subject shall be brought here in answer to the resolution. I know nothing about the matter.

The PRESIDENT pro tempore. The resolution will be again read.

The Secretary again read the resolution.

Mr. ALDRICH. Yes; "papers on file."

Mr. SPOONER. I move to strike out all after the words "nineteen hundred."

Mr. PETTIGREW. Of course that would destroy the resolution. Therefore I ask that it may go over until next Monday.

Mr. SPOONER. If the Senator wants to add "together with all correspondence on the subject," I have no objection.

Mr. PETTIGREW. I want to cover the whole ground. I think we can amend it so as to agree.

Mr. HOAR. I suggest this form. It seems to me that the tone of the latter part of the resolution is the tone of a question put to a culprit. I do not suppose it was so intended, and probably it did not strike the Senator so, but I think it would strike many people so. It is not consistent with the decorum and courtesy which belong to our intercourse with the Departments. I suggest that the Senator substitute something like this: "and also will inform the Senate of any official assurances given upon the subject."

Mr. PETTIGREW. I think if the resolution goes over until Monday we can probably agree upon wording that will not grate upon the ears of Senators.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent that the resolution lie over until Monday, retaining its place on the table. Is there objection? The Chair hears none, and it is so ordered.

EXTENSION OF MINING LAWS TO SALINE LANDS.

Mr. STEWART. I ask unanimous consent to call up the bill (S. 3313) extending the mining laws to saline lands. It will take but a moment.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill, which had been reported from the Committee on Mines and Mining with an amendment, to strike out all after the enacting clause and insert a substitute.

Mr. STEWART. I am instructed by the Committee on Mines and Mining to withdraw that amendment and offer a substitute for it. The amendment I send to the desk was reported in the House by the House committee and recommended by the Department. The Committee on Mines and Mining have considered it and adopted the House amendment and the Department's recommendation. I move to strike out all after the enacting clause and insert what I send to the desk.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. Strike out all after the enacting clause and insert, in lieu of the amendment of the committee, the following:

That all public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer-mining claims: *Provided*, That the same person shall not locate or enter more than one claim hereunder: *And provided further*, That as to any of the public lands containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, which have been heretofore occupied or attempted to be located, and are now claimed or improved as salt lands under such occupancy or attempted location, the claimants thereof shall have a preference right of location in conformity with this act for the period of six months from the passage thereof.

Mr. PLATT of Connecticut. What does the term "publiclands" include?

Mr. STEWART. Lands that belong to the United States and are not reservations, of course.

Mr. PLATT of Connecticut. It does not include reservations?

Mr. STEWART. It does not touch reservations.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. ALLISON. I ask that the bill may be again read.

The Secretary again read the proposed substitute.

Mr. CARTER. I should like to ask the Senator from Nevada a question.

Mr. STEWART. I will make a brief explanation of the amendment, at the request of the Senator from Iowa [Mr. ALLISON].

At the time the original mining laws were passed it was not known that there were large salt deposits in the various Western States, while those deposits were very extensive. It was suggested that the reservation that has pertained up to that time of salt springs should be continued. That was suggested by people in the East. There were only a few of them, and the Government reserved them and proposed to lease them. I do not know whether any were leased or not. They have been reserved on the public land. They could be counted on your fingers. I suppose there were not more than half a dozen. But at that time they did not use salt in mining; it was merely free mining.

Subsequently all through the mining region it has been found necessary to use salt in reduction, and they have taken it from all over that country. There is an abundance of it. It is almost without limit. It is not as extensive as the alkali beds, but there is an abundance of it in every one of the mining States. There is no law by which they can get title to it. They are manufacturing it for export. Now, the men going into the enterprise want title, and there is no reason why they should not have it. This matter has been submitted to the Secretary of the Interior and the amendment that we offer is recommended by him. It has been thoroughly considered by the Committee on Mines and Mining, and there is no exception to it.

Mr. PLATT of Connecticut. I suppose where we have admitted States we have reserved the title of the salt lands to the United States.

Mr. STEWART. We reserved those lands. It originated in the first place from the fact that there were very few salt deposits, and we did not want a monopoly of them to be created.

Mr. PLATT of Connecticut. And we have not any law by which the title can be acquired?

Mr. STEWART. There is no law by which the title can be acquired. There are now vast fields of it in all the Western States, and they have been using it all the while.

Mr. PLATT of Connecticut. And I suppose people have gone on without any right under the law—

Mr. STEWART. Yes.

Mr. PLATT of Connecticut. And have commenced to develop the salt mines, and this is to enable them to get title?

Mr. TELLER. I should like to say to the Senator from Connecticut that in some of the Western regions they quarry salt as they quarry stone, and it is just about as valuable as stone when it is not close to a market.

Mr. PLATT of Connecticut. I was not objecting to the bill. I wanted to understand it.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CARTER. I wish to ask the Senator from Nevada a question. On the shores of the Great Salt Lake in Utah there are deposits of salt. The waters of that lake have been receding steadily for many years past. I should like to ask the Senator if he considered that condition in connection with the framing of the phraseology of the bill giving preference to persons who locate now under mining claims over those who have heretofore located homesteads, a portion of which may be embraced within the salt lands formerly reserved.

Mr. STEWART. If they have located and acquired title, it is then withdrawn. The bill applies only to public lands. If there is any title to it, of course it would not apply.

Mr. CARTER. I understand, but the homestead filing might be rendered invalid by a declaration to the effect that the salt lands constituted, for instance, a part of the shore of Salt Lake. I do not think that any act ought to be passed which would impair the right of homestead settlers.

Mr. STEWART. I will meet that by saying "unoccupied public lands."

Mr. CARTER. That, I think, will cover it.

Mr. TELLER. That will cover it.

Mr. STEWART. That meets it.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CARTER. As agreed to be amended I will not object.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT pro tempore. The modification proposed by the Senator from Nevada to the amendment will be stated.

The SECRETARY. Insert in the amendment, before the word "public," the word "unoccupied," so as to read "that all unoccupied public lands."

The PRESIDENT pro tempore. If there is no objection the amendment will be so modified. The question is on agreeing to the amendment as modified.

Mr. PETTUS. The first part of the amendment is inconsistent with the proviso giving preference. I move to strike out the clause giving preference.

Mr. STEWART. That was recommended by the Department; but it is quite immaterial. Let it be stricken out.

The PRESIDENT pro tempore. The Senator from Alabama moves an amendment to the amendment of the committee, which will be read.

The SECRETARY. Strike out the last proviso, in the following words:

*And provided further, That as to any of the public lands containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, which have been heretofore occupied or attempted to be located, and are now claimed or improved as salt lands under such occupancy or attempted location, the claimants thereof shall have a preference right of location in conformity with this act for the period of six months from the passage thereof.*

Mr. STEWART. I do not think the proviso ought to be stricken out, because they are mining all around, and they would not want to have somebody come in and take their mines away from them.

Mr. PETTUS. The first part of the amendment provides for public unoccupied lands. Now, if they are public and unoccupied, how can anyone have a preference claim?

Mr. STEWART. This makes an exception in that particular case. It is, however, all unoccupied public land except in a case where they are occupying it for a salt mine. That would be simply an exception to the general proposition. That is all it would amount to.

Mr. PETTUS. I do not think any such preference ought to be given at all, for the reason that if a man is on that land, using it, occupying it, cultivating it as a salt mine, he is violating the laws of the United States, and he ought not to have a preference given him by reason of his violation of the law.

Mr. STEWART. I believe my friend was in California in the early days and was one of the violators of the law there.

Mr. PETTUS. Never in the world.

Mr. STEWART. We violated the law, and the Supreme Court held that we had a right to violate the law. If you will look at 3 Wallace, you will see that the court said they would shut their eyes to the fact that we had violated it and we might continue to violate it.

The PRESIDENT pro tempore. The Senator from Alabama moves to strike out the proviso which has just been read. The question is on agreeing to the amendment.

The question having been put, there were on a division—yeas 11, nays 28; no quorum voting.

The PRESIDENT pro tempore. The Secretary will call the roll.

Mr. HOAR. Let the Chair state the question once more.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Alabama, and a rising vote indicates no quorum to be present.

Mr. PLATT of Connecticut. Can not that difficulty be obviated by calling for the yeas and nays at this time?

The PRESIDENT pro tempore. The Chair does not think a call for yeas and nays can be made when the fact has been developed that no quorum is present.

Mr. TELLER and others. Let the roll be called.

The PRESIDENT pro tempore. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich,	Dillingham,	McCumber,	Sewell,
Allison,	Dolliver,	McEnery,	Shoup,
Bacon,	Fairbanks,	McLaurin,	Simon,
Bard,	Foster,	Mallory,	Spooner,
Bate,	Frye,	Martin,	Stewart,
Berry,	Gallinger,	Mason,	Taliaferro,
Beveridge,	Hansbrough,	Morgan,	Teller,
Burrows,	Harris,	Nelson,	Thurston,
Butler,	Hawley,	Perkins,	Tillman,
Carter,	Heitfeld,	Pettigrew,	Towne,
Chilton,	Hoar,	Pettus,	Turner,
Clark,	Jones, Ark.	Platt, Conn.	Vest,
Clay,	Kean,	Pritchard,	Wellington.
Cockrell,	Kenney,	Proctor,	
Culberson,	Lindsay,	Quarles,	
Deboe,	Lodge,	Scott,	

The PRESIDENT pro tempore. Sixty-one Senators have responded to their names on the roll call. There is a quorum present. The question is on agreeing to the amendment of the Senator from Alabama [Mr. PETTUS] to the amendment of the committee.

Mr. HAWLEY. Mr. President, I feel obliged to move to proceed to the consideration of the Army bill.

Mr. STEWART. Wait one moment, until we get a vote. It is all through.

Mr. HAWLEY. I had only a minute to wait in the beginning, and it has taken twenty.

The PRESIDENT pro tempore. The question is on the amendment to the amendment.

Mr. PETTUS. On that I ask for the yeas and nays.

Mr. VEST. Let us hear the amendment read.

Mr. TELLER. Let the amendment be read.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Alabama to the amendment will again be read.

The Secretary again read the proviso proposed to be stricken out.

Mr. STEWART. I accept the amendment to the amendment.

The PRESIDENT pro tempore. The amendment of the Senator from Alabama is accepted by the Senator from Nevada. The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### THE MILITARY ESTABLISHMENT.

Mr. HAWLEY. I move that the Senate proceed to the consideration of the Army bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. 4300) to increase the efficiency of the military establishment of the United States.

The PRESIDENT pro tempore. The amendment to be considered is on page 33 of the bill, to strike out section 27 and insert—

Mr. PROCTOR. I offer from the committee an amendment to be inserted at the end of section 22 on page 33.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 33, at the end of the new section 22, insert:

SEC. — That when vacancies shall occur in the position of chief of any staff, corps, or department, the President may appoint to such vacancies, by and with the advice and consent of the Senate, officers of the Army at large not below the rank of lieutenant-colonel, and who shall hold office for terms of four years. When a vacancy in the position of chief of any staff, corps,



or department is filled by the appointment of an officer below the rank now provided by law for said office, said chief shall, while so serving, have the same rank, pay, and allowances now provided for the chief of such corps or department. And any officer now holding office in any corps or department who shall hereafter serve as chief of a staff, corps, or department and shall subsequently be retired, shall be retired with the rank, pay, and allowances authorized by law for the retirement of such corps or department chief: *Provided*, That so long as there remain in service officers of any staff, corps, or department holding permanent appointments, the chief of such staff, corps, or department shall be selected from the officers so remaining therein.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Vermont.

Mr. TELLER. I wish the Senator who offers the amendment from the committee would explain what it means. Nobody can tell when read in that way. I know there is something about officers being appointed for four years. I do not know what it means. I should like to have the Senator from Vermont explain it.

Mr. PROCTOR. The last clause of our original bill of last session, which has been stricken out by the House, beginning at line 25, at the bottom of page 2, and continuing to the middle of page 3, had a provision that is practically the same as this, except that in the amendment just submitted we require that the head of the corps shall be confirmed by the Senate. That makes the provision comply precisely with the present arrangement in the Navy, which has worked so satisfactorily. It is limited by the proviso, so that all the officers now holding permanent appointments receive their regular promotion, and the selection of the chief must be made from them so long as any of them remain.

The PRESIDENT pro tempore. The question is on the amendment.

The amendment was agreed to.

Mr. MORGAN. I desire to offer an amendment to the bill, which I ask to have printed.

The PRESIDENT pro tempore. The Senator from Alabama submits a proposed amendment, which will be read.

The SECRETARY. It is proposed to insert as a new section the following:

SEC. —. From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States as a posse comitatus, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress; and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$10,000 or imprisonment not exceeding two years, or by both such fine and imprisonment.

The PRESIDENT pro tempore. The proposed amendment will be ordered to be printed and lie upon the table. The next amendment reported by the committee will be stated.

The SECRETARY. On page 33 the committee propose to strike out section 27, as follows:

SEC. 27. That whenever there shall occur a vacancy, which can not be filled by promotion or appointment under the provisions of preceding sections of this act, in offices of the grades of lieutenant-colonel and major in the Adjutant-General's and Inspector-General's departments; of captain in the Quartermaster's, Subsistence, and Pay departments, and of first lieutenant in the Signal Corps, such vacancy shall not be filled by a permanent appointment, but shall be filled by the detail, by the Secretary of War, after competitive examination, as hereinafter provided, of an officer of the line, who shall serve for the period of four years unless sooner relieved, and shall not again be eligible for detail in any staff corps or department until he shall have rendered actual service for two years with troops of the arm in which he is commissioned. Any officer detailed for staff duty under the provisions of this section shall be selected from the grade corresponding to, or from the grade next below, that to which the detail is to be made, and shall have the rank, pay, and allowances of the grade to which detailed. No detail for staff duty as herein provided shall be made in the case of any officer until he has actually served with troops for at least four years if his rank is above that of a second lieutenant, and for at least two years if he is a second lieutenant; and no such detail shall be made in the case of any officer until he shall have passed a satisfactory competitive examination by an examining board composed of three officers, of whom one may be a line officer and two shall be permanent or detailed officers of the department or corps in which the detail is to be made, said examination to be conducted under regulations to be prescribed by the President, and to be announced in general orders to the Army. Examining boards, to be constituted as herein prescribed, for the various departments and corps in which details are to be made shall be convened by the Secretary of War at such times and places as the exigencies of the service may require, and said board shall examine and report upon, as far as practicable, all line officers who may be applicants for details to staff duty, and who shall have been recommended by their commanding officers for such details. A separate list of officers reported on favorably by such examining boards shall be kept for each department or corps in which details are to be made, the officers on said list to be arranged in accordance with the ratings given them by the examining boards, and to be detailed for duty, in the department or corps to which the list pertains, in the order of their standing upon said list, beginning with the officers having the highest rating; but no officer shall remain eligible for detail for more than two years unless he shall again successfully pass the examination hereinbefore prescribed.

The amendment was agreed to.

The next amendment was, on page 35, beginning in line 10, to strike out section 28, as follows:

SEC. 28. That whenever there shall occur a vacancy, which can not be filled under the provisions of preceding sections of this act by the promotion of officers holding permanent appointments, in offices of the grades of colonel in the Adjutant-General's and Inspector-General's Departments, of major in the Quartermaster's and Subsistence Departments, of major in the Pay Department after the number of paymasters of that grade shall have been reduced below twenty, and of captain in the Signal Corps, such vacancy shall

be filled by the appointment of an officer to be selected from among those who have served by detail, under the provisions of this act, in the next lower grade in the department or corps in which the vacancy occurs.

The amendment was agreed to.

Mr. ALLISON. Do I understand that the sections which have been stricken out are all one amendment, or are they separate amendments? I think for the convenience of a conference, if there ever should be one, they ought to be regarded as separate amendments, and so numbered.

The PRESIDENT pro tempore. They are treated as separate amendments.

The next amendment reported by the Committee on Military Affairs was, on page 35, line 23, to renumber section 29 so as to make it section 24.

The amendment was agreed to.

The next amendment was, on page 36, line 9, to renumber section 30 so as to make it section 24, and in line 16, after the word "Officers," to insert "not over 40 years of age;" so as to read:

SEC. 24. That vacancies in the grade of field officers and captain, created by this act, in the cavalry, artillery, and infantry shall be filled by promotion according to seniority in each branch, respectively. Vacancies existing after the promotions have been made shall be provided for as follows: A sufficient number shall be reserved in the rank of second lieutenant for the next graduating class at the United States Military Academy. Officers not over 40 years of age now holding commissions in the Volunteer Army may be ordered before boards of officers for such examination as may be prescribed by the Secretary of War.

The amendment was agreed to.

The next amendment was, in line 21, before the words "second lieutenant," to strike out "first or;" and in line 23, before the words "second lieutenant," to strike out "first or;" so as to read:

Volunteer officers who establish their fitness before these examining boards may be appointed to the grade of second lieutenant in the Regular Army. Volunteer officers so appointed to the grade of second lieutenant shall be arranged according to rank, on a separate list.

Mr. NELSON. Those two amendments ought not to be adopted. Under the bill as it came from the House appointments in the line were open to volunteer officers both in the grades of first and second lieutenants. This amendment strikes out first lieutenants and limits the appointments of volunteer officers wholly to second lieutenants. I think that is a discrimination that ought not to be permitted. I think both the grades of first and second lieutenant ought to be open for the appointment of officers who have been in the Volunteer Army since the Spanish war. I trust the amendment of the committee will not be adopted.

Mr. PROCTOR. They are open, but perhaps not quite so fully as in the bill as it came from the House. If the Senator will read further he will see that—

Volunteer officers so appointed to the grade of second lieutenant shall be arranged according to rank, on a separate list. All vacancies then existing in the grade of first lieutenant in each arm of the service—

And there will be many—

shall be filled from this list and the lineal lists of second lieutenants of the Regular Army, according to seniority, etc.

Mr. NELSON. But the point is that none of them can be appointed as first lieutenants in the first instance, and when they get in as second lieutenants they have to take their places in the line of promotion with the other second lieutenants. I think we ought to leave both the grades of first and second lieutenant open—and it is surely little enough—to those volunteer officers. Take a man who has served with efficiency in the Volunteer Army as a major, a lieutenant-colonel, or a colonel, and there is no reason why he should be limited to a mere second lieutenant. I should be glad if they had been permitted to go as high as captain; but I think the provision in the bill as it came from the House as to first lieutenants ought to stand, and I trust no change will be made in that respect.

Mr. TILLMAN. I asked the Senator from Vermont [Mr. PROCTOR] the other day to give me some information in regard to the provision in the bill, if there be one, permitting privates to be examined for promotion; whether there is any opportunity offered to young men who served in the Spanish war as officers and who have joined the Army as privates with a view of getting an opportunity to get into a lieutenant's position, to do so by competitive examination—men of high character and good standing—whether you have barred them and shut them out from any of these appointments or not. If not, would not the committee accept an amendment that would permit these privates to now get a chance to secure appointments as second lieutenants by the appointment of the President if they can stand the examination?

Mr. SEWELL. I will say to the Senator from South Carolina that that is the law now, and it remains the law.

Mr. TILLMAN. There is no provision in this bill for the increase of the Army looking to these appointments for that purpose.

Mr. SEWELL. This will not interfere with the general law that exists to-day. We are examining to-day, in almost every department and at almost every post, deserving privates and non-commissioned officers for commissions in the Army, and they get the promotion if they pass the examination.



Mr. TILLMAN. Then why have a special provision in this bill looking to the filling of these vacancies by officers only and not by officers and men who served in the Spanish war? You by specific action here bar the privates out, and yet you say there is a general act which permits them to be examined.

Mr. SEWELL. I do not think it bars them out at all.

Mr. TILLMAN. Then are you willing to put in "officers and privates?"

Mr. NELSON. Will the Senator allow me?

Mr. TILLMAN. With pleasure.

Mr. NELSON. I think the Senator from New Jersey [Mr. SEWELL] is mistaken. It is true that privates can be examined and get commissions in the Army, but it is only privates who are in the Regular Army. It does not apply to the privates who have been in the volunteer service and are mustered out. They can not get the benefit of that law.

Mr. TILLMAN. Will not the committee accept an amendment providing in this section for officers and enlisted men, so that any competitive examination will be open to any soldier who has enlisted or who is now in the Army?

Mr. BATE. I will say to the Senator from South Carolina that there has been an amendment offered to this bill—I offered it yesterday—which includes privates as well as officers.

Mr. TILLMAN. Has that been accepted or voted on?

Mr. BATE. No; it has not. It is upon the table.

Mr. TILLMAN. Then the Senate will have an opportunity to pass on it hereafter, and I have nothing more to say; but I do not want this to go by without those men having an opportunity of getting the position of second lieutenant if the bill itself prohibits the appointment of anybody except officers.

Mr. TELLER. I think this is a good place to amend this bill.

Mr. TILLMAN. I think so, too—right here.

Mr. TELLER. It is very easy to do it if that is the sentiment of the Senate. In line 16, on page 36, after the word "officers," I move to insert "and enlisted men."

Mr. President, I agree with the Senator from Minnesota [Mr. NELSON] that we ought to leave open at least the first and second lieutenantcies, for we know that we got into the Army from the volunteer forces in this way some very excellent men, who are now in the public service or who have been retired. I think it has been one of the defects of the Regular Army that it has not held out sufficient inducements to privates and noncommissioned officers for promotion. I should like to have it broad enough to take in every man in the Army whom the President of the United States may think deserving of promotion.

Mr. HALE. Will the phrase "enlisted men" include what the Senator desires?

Mr. TILLMAN. "Or noncommissioned officers?"

Mr. HALE. "Or noncommissioned officers."

Mr. TILLMAN. No.

Mr. HALE. It certainly ought to.

Mr. TELLER. The term "Officers," I suppose, includes noncommissioned officers.

Mr. HALE. No.

Mr. TELLER. Then, we want it to read "Officers, noncommissioned officers, and enlisted men."

Mr. MONEY. Noncommissioned officers are enlisted men.

Mr. SPOONER. But all enlisted men are not noncommissioned officers.

Mr. MONEY. Of course not.

The PRESIDENT pro tempore. In the confusion which is prevailing the Chair does not know which Senator has the floor.

Mr. TELLER. I want to amend in this way—"Officers, noncommissioned officers"—

Mr. SEWELL. It is not necessary to put in "noncommissioned officers." The words "or enlisted men" will be sufficient.

Mr. TELLER. Very well, "enlisted men." There seems to be a difference of opinion. Let us put those words in to make the matter sure. When the bill goes into conference the committee can fix it so that it will be right. What we want is to open the door of promotion to noncommissioned officers and privates. There is no way now, as I understand, in which that can be done.

Mr. NELSON. Will the Senator allow me to make a suggestion to him?

Mr. TELLER. Certainly. I do not know much about it.

Mr. NELSON. The term "enlisted men" covers technically both privates and noncommissioned officers, and is a better term than the other, and more comprehensive.

Mr. TELLER. If it does, that is enough. Some Senators, however, seem to think it does not. I should have thought it did, but the chairman of the committee can tell us.

Mr. HAWLEY. Unquestionably the phrase "enlisted men" does include noncommissioned officers.

Mr. TELLER. Very well. Then, I will move the amendment in the way I first suggested it—"Officers and enlisted men." Then, I want the Senate to disagree to the amendment proposed by the committee, and leave the positions of first and second lieutenant

ant open to these promotions if the President thinks fit to make them.

Mr. MONEY. I inquire of the Chair if the amendment offered by the Senator from Minnesota [Mr. NELSON] is to be voted upon now, or is the amendment suggested by the Senator from South Carolina [Mr. TILLMAN] or by the Senator from Colorado [Mr. TELLER] the matter to be considered?

The PRESIDENT pro tempore. There was a unanimous-consent agreement that the committee amendments should be first acted upon, and another unanimous consent was given that that should not prevent the offering of any amendment hereafter.

Mr. MONEY. I understand that; but what I want to know is what is under consideration. What is to be voted on?

The PRESIDENT pro tempore. The committee amendments under the unanimous-consent agreement.

Mr. MONEY. I understood the Senator from Minnesota to offer an amendment to the committee amendment. Is that the pending question?

Mr. NELSON. I was not offering an amendment. I merely spoke against the amendment proposed by the committee.

Mr. MONEY. Oh!

Mr. NELSON. The committee amendment was under consideration, and that is an amendment to eliminate the position of first lieutenant from appointments that are open to volunteer officers—limiting promotions to second lieutenantcies. That is the effect of the amendment of the committee. I was opposing it and wanting the bill to remain as it came from the other House, leaving the positions of first and second lieutenants open to volunteer officers.

Mr. MONEY. If that is the matter to be voted upon, I want to say that I entirely agree with the Senator from Minnesota. I think both the first and second lieutenantcies should be left open to meritorious officers or privates if they show their competency before a board of examination. We have some soldiers in the Philippines to-day who distinguished themselves in the Cuban campaign during the Spanish war, and who have since distinguished themselves in the Philippines. If these young gentlemen wish to adopt the profession of arms, after having proved their thorough fitness and capacity and courage for that service, they ought to have left open to them a bigger place than that of second lieutenant.

I have in mind a young gentleman who served with distinction on the staffs of General Ewers and General Wood, and he has very high testimonials from those generals. He has since served with distinction in the Philippines. He has been made adjutant of his regiment. He has served as judge-advocate to general courts-martial. He has been four times mentioned in reports for distinguished and conspicuous bravery in action, and he is now recommended by the General Commanding the Army for two brevets, one as a major and one as lieutenant-colonel, for gallantry in action and general meritorious conduct. That young gentleman wants to quit the study and the practice of the law and be a soldier, but he can not very well afford to do so if he is to be but a second lieutenant, because he has a family. That is one case I know all about, and there are numbers of others that I know something about.

I do not believe, if any young man has served his country, has risked his life in war, and has shown his thorough capacity and courage and talent and everything else to make an officer, that he should have open to him only the lowest grade of commission, that of second lieutenant. In fact, I believe the bill as it came from the House should be amended so as to leave the grade of captain open to such meritorious cases. Of course, the discretion of the President must come in here. No man can be appointed to any position unless he has the recommendation of his superior officer, of his colonel, of his brigadier, his major-general, or his corps general, or whoever commands, and all these recommendations must concur in pointing out to the President the distinguished ability and merits of the soldier who is trying for a commission in the Regular Army. So that in any event the matter is thoroughly safeguarded.

I believe the grade of captain should be open to these gallant fellows, and I am in favor of leaving it open to them. It would be no disparagement to the regulars that they would be compelled to compete with these men who are their equals in every respect. I hope that the committee amendment to the House bill will not pass. I would rather see the grade extended up to that of the rank of captain, so that these gentlemen might have at least a chance for this promotion.

We understand how people are appointed to Westpoint. I had a competitive examination for the selection of a cadet, but other gentlemen appoint because they know the boy, some appoint by special examination or selection; and all sorts of people get in there. All the hazing business which is brought to light does not do credit to the institution as it is now conducted. We certainly will get as good material for officers, and certainly for generals, out of the volunteer force, as we can get from the cadets at



Westpoint, who are to-day disgracing the whole country, or at least some of them are doing so, if the report of the examining committee can be at all trusted.

I shall insist when the time comes to vote that there shall be some provision made for these men.

Mr. HAWLEY. I make no objection whatever to crossing out the black brackets there, and leaving the words "first or" in the bill where they occur in two places, so as to make the provision apply to the positions of first and second lieutenant.

Mr. TELLER. Let that be voted on, and then I want to state my amendment, with which I have not yet got through.

The PRESIDENT pro tempore. The question is on the adoption of the committee amendments in lines 21 and 23, of section 24, on page 36, which have been read.

The amendments were rejected.

The PRESIDENT pro tempore. Under the unanimous-consent agreement, the next amendment of the committee will be stated. Later on, under another unanimous-consent agreement, the amendment of the Senator from Colorado will be clearly in order.

Mr. TELLER. But there is nothing to prevent me from offering my amendment now, which I propose to do. I have not had a chance to complete it yet. I have got part of it offered, but through the intervention of others I did not get through. I should like to complete the amendment. My motion is to insert, after the word "officers," in line 16 of the pending section, the words "and enlisted men." Now, to make that conform with the other part of the section we can strike out the words "now holding commissions." That is my motion.

The PRESIDENT pro tempore. The Chair calls the attention of the Senator from Colorado to line 16 of the bill, which reads:

Officers not over 40 years of age now holding commissions in the Volunteer Army may be ordered before boards of officers for such examination.

That is connected with the provision which the Senator now proposes to amend. If the Senator will examine the two propositions, he will see there will have to be an amendment there in order to make the intention clear.

Mr. HAWLEY. Some amendment must follow if we preserve the words "first or" in the two places there; and my colleague from New Jersey [Mr. SEWELL] is prepared to present the proper amendment.

Mr. TELLER. I withhold my amendment until I see what the committee propose.

Mr. SEWELL. In line 24, after the word "list," I move to strike out:

All vacancies then existing in the grade of first lieutenant in each arm of the service shall be filled from this list and the lineal lists of second lieutenants of the Regular Army, according to seniority as determined by length of prior commissioned service—

Leaving in the words:

But nothing herein contained shall change the relative rank of officers heretofore commissioned as second lieutenants in the Regular Army.

Mr. ALLISON. The Senator proposes to strike out from line 24 down to and including line 5 on page 37?

Mr. SEWELL. No.

The PRESIDENT pro tempore. The Senator from New Jersey, in behalf of the committee, offers an amendment, which will be read.

The SECRETARY. On page 36, line 24, after the word "list," it is proposed to strike out:

All vacancies then existing in the grade of first lieutenant in each arm of the service shall be filled from this list and the lineal lists of second lieutenants of the Regular Army, according to seniority as determined by length of prior commissioned service.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from New Jersey.

Mr. DANIEL. I should like to have that read again, as I did not catch the effect of it.

The PRESIDENT pro tempore. The amendment will be again read.

The Secretary again read the amendment proposed by Mr. SEWELL.

Mr. SEWELL. I will say to the Senator from Virginia that we have thrown open to the volunteers promotion to the positions of first and second lieutenant. Then the bill goes on to say that—

Volunteer officers so appointed to the grade of first or second lieutenant shall be arranged, according to rank, on a separate list.

That covers the whole thing.

Mr. DANIEL. I should like to ask the chairman of the committee a question as to this bill, while he is on the floor.

Authority is given in the bill for the appointment of commissioned officers in the volunteers to a rank in the Regular Army as high as that of first lieutenant. Is it intended by the bill to prohibit the President from making any appointments whatsoever in the Regular Army from civil life?

Mr. SEWELL. He could not, under this bill, above the grade of first lieutenant, except in the staff corps.

Mr. DANIEL. He could make no appointment whatever from civil life in the Regular Army if this bill should become a law?

Mr. SEWELL. Except under the present law; and that is done all the time.

Mr. DANIEL. But does not this supersede the present law?

Mr. SEWELL. I should think not.

Mr. DANIEL. Then why is it necessary to give the President authority in the bill to appoint men now in the Army to the rank of second lieutenant if he can do it anyway?

Mr. ALDRICH. I suggest to the Senator from New Jersey that if his amendment is adopted I think the President could appoint. This strikes out the restriction upon the appointing power. The amendment of the Senator from New Jersey is to strike out the very clause which imposes this restriction.

Mr. DANIEL. No; it allows appointments "from this list and the lineal lists of second lieutenants of the Regular Army."

Mr. ALDRICH. It confines the appointments to those.

Mr. DANIEL. To those two lists.

Mr. ALDRICH. But if that language is stricken out, the appointing power is not restrained by any language in the law, as I understand it.

Mr. ALLISON. If it be true that this opens the entire list of the first lieutenants to appointments from civil life, I think it might create great confusion.

Mr. DANIEL. That was not my proposition.

Mr. ALLISON. I think the intent and purpose of the bill and of the House amendment is to confine at least the appointments of first and second lieutenants to persons who have served in the war with Spain.

Mr. DANIEL. As the bill now stands there is authority given to appoint second lieutenants from "officers not over 40 years of age now holding commissions in the Volunteer Army." If the President already has the power to appoint any person a second lieutenant in the Regular Army from civil life, what is the necessity of putting in here authority to him to appoint one who is now serving in the volunteers?

Mr. SEWELL. It is to cover the volunteer officers in the war with Spain. The rule of the Army, established by regulations, is to give vacancies as they occur, first to the graduates from Westpoint—

Mr. DANIEL. I understand that.

Mr. SEWELL. And to the deserving noncommissioned officers and privates who have passed an examination—we are constantly examining them; we do not get enough of them—and then to civilian appointments, and civilians were appointed largely last year and the year before in order to fill up the Army. Some of them were among the brightest young men in the country, graduates of our colleges.

Mr. DANIEL. That is what I want to preserve.

Mr. SEWELL. That is preserved, and the general law is not interfered with by this bill.

Mr. DANIEL. I was afraid this bill might be construed to override that. The bill, in my judgment, is too restrictive anyway. I do not sympathize at all with the spirit or structure of the bill. It looks like a skillful piece of military engineering by a Regular Army officer to keep out of the Army many of the brightest and best military spirits in this country.

According to the newspapers, there is now lying before the Senate the nomination of a volunteer officer in the Philippines to the rank of general, and while the President is recognizing, what every intelligent man in the country knows to be the fact, that we have many volunteer officers in all the States of this Union who are capable of commanding battalions, regiments, brigades, divisions, and armies, the Senate is engaged, after having just welcomed home many of our men from a successful war, in proscribing them from holding any commissions in the permanent service of the country save that of second lieutenant. This is the most proscriptive bill against the volunteers of this country that has ever been proposed in either House of Congress. The whole spirit and texture of it is wrong.

Mr. President, every war that this country has ever been engaged in has been fought for the most part by volunteers—nearly all of them—

Mr. TILLMAN. Without any question.

Mr. DANIEL. The Revolutionary war, the war of 1812, the Mexican war, the civil war, and in the last war the volunteers were not in any respect inferior to the regulars. No man can point to any field in the late war or to any field in the military history of this country on which the volunteers have not maintained the American character and the American name in a manner worthy of this country. The regulars are skillful officers and good men, but for the Senate to go to work and give them a monopoly in the military service of the country is opposed to our history, opposed to precedent, and absolutely opposed to the military and equitable justice of this case.

I do not see why a volunteer officer who is fit for it, who has

been in the service, and who has learned something of the art of war in the best school in which that art is ever taught—practical experience—shall not hold, if the President thinks he is fit to hold it, any commission in a regiment, or any other commission in the Army. We do not wish to segregate and isolate the military establishment of this country from all sympathy with and from all reinforcement from the ranks of the people. We ought to keep an open door between the Regular Army and the people, and have the people going into it all the time, carrying their views and their knowledge, which are something more than any young man acquires at Westpoint. We want the trained, technical, expert military element in the Army to give it certain shape and drill and certain elements of military science which can not be learned offhand; but the other element we want in the Army is a much greater one than that. It is the martial and adaptive spirit of a free people. We want to intermix men who have come fresh from the people with men who have been a long time segregated from the people, and it is in that amalgamated sentiment that we will find the best type of American thought and of the American officer.

I shall vote to strike out these prohibitions upon the American people from the right to go into the military service. I wish that this was a volunteer bill instead of a bill to provide for so massive a Regular Army. The volunteers have never failed to come forward whenever the country has said "I need you." They are in the Philippines to-day, and every official in the Government, from the President down, has applauded their good work; and as they will be coming home they will find another army going there, in which they are proscribed from holding any commission but that of second lieutenant—a beautiful welcome for the Senate of this country to hand to the returning volunteers—a law proscribing them and all their officers from holding any commission in the army which is sent to complete that work, except the lowest commission in it—and at a time when the President of the country recognizes that they have amongst them men who ought to be and are being promoted to the rank of general.

This is an exclusive bill, Mr. President, devised for the purpose of being exclusive, and to give the officers of the Regular Army a priority and advantage to which they are not entitled. I am glad to see a regular officer promoted, and there are some who ought to be promoted and who have been neglected, but I am not in favor of turning over all the military affairs of the country to the regulation and to the command of regular officers. The Commander in Chief of the Army to-day is not a Westpointer or an educated military man, excepting such education as he obtained in the field. The Adjutant-General of the Army, whom the Senate has recently seen fit to promote from brigadier-general to major-general in consideration of his excellent service in the late war, was also an American volunteer who never rubbed his head against the walls of Westpoint.

Mr. BERRY. He never was hazed?

Mr. DANIEL. There are here eminent men on both sides of the Chamber who were major-generals and brigadier-generals and who are honored by their countrymen, not one of whom ever got his start in war from Westpoint. And this is the body which is asked to go back upon American history and upon the record of its own most distinguished military men, upon the present conduct of the Senate and the present organization of the Army, and to say that the brightest and best and bravest and most heroic men in this country, who have just returned from fields red with their blood, shall hold no commission in its service but that of second lieutenant; and now we are trying to squeeze it up to a first lieutenantancy. I would throw the whole Army open to them, Mr. President. The President, in the exercise of his discretion, will give such preference to the regular officers as the nature of the case will warrant.

Mr. VEST. Will my friend the Senator from Virginia permit me to ask him a question for information? I am not much of a military man, and I should like to understand him. I understand him to state that nothing but the grade of second lieutenant is open for appointment by the President.

Mr. ALLISON. First lieutenant now.

Mr. DANIEL. If we make it so.

Mr. SEWELL. We have.

The PRESIDING OFFICER (Mr. ALDRICH in the chair). That amendment has been agreed to.

Mr. VEST. My understanding, derived from my experience as a Senator, is that Presidents have been in the habit of appointing second lieutenants and brigadier-generals from civil life, and that the appointments are confined to those two grades. I should like to know from some member of the Military Affairs Committee if I am not correct. I know that appointments of brigadier-generals from civil life have been sent to the Senate since I have been in service here. I think there is one pending here now.

Mr. SEWELL. There is no prohibition. The President can appoint anyone if the Senate will confirm him.

Mr. VEST. I will ask the Senator from New Jersey if the appointment of a brigadier-general from civil life, a citizen of Illinois, has not been sent to the Senate, and is now pending, I believe, before the Committee on Military Affairs?

Mr. SEWELL. Who?

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New Jersey on behalf of the committee.

Mr. DANIEL. I ask that it may be stated.

The PRESIDING OFFICER. The amendment will again be stated.

The SECRETARY. On page 36, line 24, it is proposed to strike out the following:

All vacancies then existing in the grade of first lieutenant in each arm of the service shall be filled from this list and the lineal lists of second lieutenants of the Regular Army, according to seniority, as determined by length of prior commissioned service.

Mr. BATE. Mr. President, that clause certainly does confine the appointments by the President to the Regular Army. It seems to be the contention here now as to whether these appointments ought to come from the Regular Army exclusively or from the volunteers also. This very amendment seems to go to the gist of this contention. I should myself like to see some relief to this embarrassment. I believe in extending it to include volunteers. While I have the highest opinion of the regular officers of our Army and think, in some instances, they should have preference because of their experience and education, yet I do not like to see the bar put up and the door closed against those who have shown themselves worthy in the hour of peril, and have gone forth in battle for the country and have come out with honor.

Mr. President, I know such instances where it would work a marked injustice. There was a regiment from my own State which the President has on more than one occasion alluded to in complimentary terms in his public addresses—the First Tennessee Regiment. That regiment was enlisted immediately after the outbreak of hostilities with Spain, and was sent to the Philippine Islands, and, instead of being sent home at the expiration of its term of service, was kept for nineteen months, and no murmur heard from them, and when orders had been received to go home and they were upon the vessel that was to transport them notice was given that the enemy was approaching. They immediately got off the ship, went ashore to resist the enemy, and did not return until the situation was relieved. Col. Frank Cheatham was then a major commanding a battalion in that regiment; and instead of coming home, as they had a right to do, enough of them reenlisted and formed a battalion in the Thirty-seventh Regiment. Major Cheatham has, by legitimate gradations, become the colonel of the Thirty-seventh Regiment, and is with the battalion of Tennesseans still in the service. He and his command will be mustered out the 30th of June. This officer has been in the Army since the beginning of the Spanish war.

Arguments are sometimes better understood when you illustrate them by a person. Colonel Cheatham is a military man by nature, and experienced by his command at home of the State Guards. He is the son of the man whose honored name he bears, and who was a major-general of distinction in our civil war. Now, that man having reenlisted, and having assisted in reenlisting a battalion for his country's service, and while they were in Manila, costing the Government nothing to take them there, he and those with him have done well their part; yet, under the terms of this bill, he and his fellow-officers have to step down and out; and I suppose the most that could be done for him, under the amendment, is a first lieutenantancy. That is the case now presented.

We want some remedy for it. This is a restrictive measure, as was said by the Senator from Virginia [Mr. DANIEL], one that meets my disapproval, Mr. President, although I am on the Committee on Military Affairs, from which this amended bill came. I am opposed to this inequality and injustice, and I shall vote against this bill because it is restrictive and unjust and gives a monopoly to the regulars over volunteers. Indeed, it pushes aside volunteers altogether. I have a high opinion of our Regular Army, its officers and men. The regular officers, as a class, are educated, polished social gentlemen, attractive and winsome, and well calculated to impress Senators and committees with their way of thinking and make us feel kindly to their interests and sympathize with their ambition. But we can not forget the historic volunteer. This bill is restrictive; aye, is drastic. It is monopolizing in fact as well as in tendency. I object to it on that ground, as I do on many others that I hope to have occasion to present to the Senate hereafter in the discussion of this bill.

Mr. HAWLEY. I sympathize with many of the things said here, but we are not at present coming to any practical result. I suggest that this section lie over until Monday's session, and in the meantime we will have a meeting of the Committee on Military Affairs and try to submit a proposition which will be acceptable.



Mr. BATE. That is agreeable.

The PRESIDING OFFICER. Is there objection to that course? If not, the amendment will be passed over.

Mr. TELLER. I do not want to object, but I want to say to the committee that they will have to do more than report this bill as it came from the House. Unless they come here with an amendment which will give the enlisted man an opportunity to be promoted by the President as he ought to be, I shall move an amendment. If the committee will do that, of course it will save them some trouble. I have no objection to this. There must be other amendments to make it harmonious.

Mr. NELSON. What is the state of the last amendment?

The PRESIDING OFFICER. It has been passed over until Monday by the unanimous consent of the Senate.

Mr. HAWLEY. It goes over until Monday.

The PRESIDING OFFICER. The next amendment of the committee will be stated.

Mr. WARREN. Before this matter is passed over, I desire to offer an amendment which I send to the desk. I ask that it may be printed, to be considered with this section.

The PRESIDING OFFICER. The Senator from Wyoming offers an amendment, which will be read for information.

The SECRETARY. On page 36, section 24, line 17, after the word "Army," insert the following:

And those volunteer officers not over 30 years of age who held commissions during the war with Spain and are now serving in the Regular Army.

The PRESIDING OFFICER. The amendment will be printed.

Mr. BATE. I should like to hear it again. It is not a committee amendment?

The PRESIDING OFFICER. It is not a committee amendment. It is an amendment offered by the Senator from Wyoming and is not now in order. The next committee amendment will be stated.

The SECRETARY. On page 37 it is proposed to renumber section 31 so that it will stand as section 25.

The amendment was agreed to.

The SECRETARY. On page 37 it is proposed to renumber section 32 so that it will stand as section 26.

The amendment was agreed to.

Mr. ALLISON. What has become of the amendment on page 37 striking out certain words?

The PRESIDING OFFICER. That is part of the section which has been passed over.

Mr. MALLORY. I desire to offer an amendment to section 26, and I ask that it may be read.

The PRESIDING OFFICER. The Senator from Florida offers an amendment, which will be read for information.

The SECRETARY. It is proposed to strike out all of section 26 on page 37.

The PRESIDING OFFICER. The amendment will be printed. The next amendment of the Committee on Military Affairs will be stated.

The SECRETARY. On page 38, line 1, after the word "direct," it is proposed to strike out the following proviso:

*Provided, That in the event of the enlistment of a soldier in the Army for the period required by law, and after the expiration of one year of service, should either of his parents die, leaving the other solely dependent upon the soldier for support, such soldier may be honorably discharged from the service of the United States upon due proof being made of such condition to the Secretary of War.*

Mr. TELLER. I wish somebody would tell why that is to be stricken out. It seems to be a good provision.

Mr. SPOONER. It ought certainly to be stricken out.

Mr. TELLER. I should like somebody to give a good reason for it.

Mr. SPOONER. For this reason: It is restrictive.

*Provided, That in the event of the enlistment of a soldier in the Army for the period required by law, and after the expiration of one year of service, should either of his parents die, leaving the other solely dependent upon the soldier for support, such soldier may be honorably discharged from the service of the United States upon due proof being made of such condition to the Secretary of War.*

The implication from that language would be that only in such case should the discharge be made, and the soldier would be obliged to serve a year. I suppose if the wife of a soldier serving in the Philippines died, leaving a family of children to be taken care of, he could be discharged. The power of the President is what the power of the President ought to be, to discharge a man at any time when the circumstances presented to him are such as to warrant the exercise of that authority; and there is no sense whatever, to my mind, in this proposition.

Mr. TELLER. I think the Senator from Wisconsin has made a good case.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the Committee on Military Affairs.

The amendment was agreed to.

The next amendment of the Committee on Military Affairs was to renumber section 33 so as to stand as section 27.

The amendment was agreed to.

The next amendment was, on page 38, section 27, line 10, to strike out the word "rendezvous" and insert "stations;" so as to make the section read:

SEC. 27. That the Secretary of War is authorized to detach from the Army at large such number of enlisted men as may be necessary to perform duty at the various recruiting stations, and while performing such duty 1 member of each party shall have the rank, pay, and allowances of sergeant, and 1 the rank, pay, and allowances of corporal of the arm of the service to which they respectively belong.

The amendment was agreed to.

The next amendment was to renumber section 34 so as to stand as section 28.

The amendment was agreed to.

The next amendment was to renumber section 35 so as to stand as section 29.

The amendment was agreed to.

The next amendment was to renumber section 36 so as to stand as section 30.

The amendment was agreed to.

Mr. PROCTOR. In new section 30, page 39, line 11, the committee propose an amendment, to strike out the words "or resigned" and after "service" to insert the words "by resignation or otherwise;" so that it will read:

And have been honorably discharged from the service by resignation or otherwise.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Vermont on behalf of the committee.

The amendment was agreed to.

Mr. ELKINS. I desire to offer an amendment and have it printed. Let it be read.

The PRESIDING OFFICER. The Senator from West Virginia offers an amendment, which will be read for information.

The SECRETARY. It is proposed, in section 17, line 5, page 29, to strike out "three" and insert "four;" in line 6, to strike out "four" and insert "five;" in line 8, to strike out "nine" and insert "twenty;" in line 9, to strike out "seven" and insert "five;" so that lines 3 to 9 inclusive shall read:

That the Pay Department shall consist of 1 paymaster with the rank of brigadier-general, 4 paymasters with the rank of colonel, 5 paymasters with the rank of lieutenant-colonel, 20 paymasters with the rank of major, and 25 paymasters with the rank of captain, mounted.

Also to strike out the word "nine," in line 15, and insert "twenty;" to strike out "nine," in line 23, and insert after the word "reduced" the words "below twenty;" so that line 23 shall read:

After the number of majors has been reduced below 20.

Mr. ELKINS. Make that line 15; line 23 is wrong.

Mr. BATE. What section is it?

Mr. ELKINS. Section 15. I also wish to strike out the word "forty," in line 19, and insert the word "fifty."

Mr. HALE. How much of an increase is it?

Mr. ELKINS. It does not increase it at all.

Mr. HAWLEY. This amendment is to be passed over?

The PRESIDING OFFICER. It was read for information, and will be printed and lie on the table.

Mr. HAWLEY. I shall object to it.

The PRESIDING OFFICER. The next amendment of the committee will be stated.

The next amendment of the Committee on Military Affairs was, on page 39, to strike out all of section 37 and insert the following:

SEC. 31. That any officer of the Army now on the active list below the grade of brigadier-general who served during the civil war shall, when retired, be retired with the rank and pay of the next higher grade, except such officers as may be retired under section 29 of this act. This section shall apply to officers who have been retired on or since the 11th day of August, 1898, but shall not apply to any officer whose service on the active list does not exceed thirty-five years.

Mr. TELLER. I ask the committee to let that section be passed over. I have an amendment to that section. I want to discuss it a little.

Mr. PROCTOR. Will the Senator allow me to perfect it a little further by committee amendments?

Mr. TELLER. Yes; but I do not want to have it adopted now.

Mr. PROCTOR. No; I move to insert, as a committee amendment, in line 5, after the word "war," the words "prior to April 9, 1865." The reason for that, as the Senator will see plainly, is that the war did not officially terminate until August. It is to limit it to those who were in the civil war before the actual fighting ceased.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 40, section 31, line 5, after the word "war," it is proposed to insert "prior to April 9, 1865."

The amendment to the amendment was agreed to.

Mr. PROCTOR. Further, in line 10, after the word "whose," I move to insert "active."

Mr. TELLER. So as to read "active service."

Mr. PROCTOR. So as to read "active service;" and in the next line I move to strike out "on the active list" and insert "in the Army, exclusive of service as a cadet at the United States Military Academy;" so that it will read:

But shall not apply to any officer whose active service in the Army, exclusive of service as cadet at the United States Military Academy, does not exceed thirty-five years.

Mr. TELLER. I suggest to the Senator that he had better amend that by striking out "five" and let it stand on the statute, which allows a man to be retired on thirty years' service. If he will do that I think the provision will be very fair.

There are a large number of men who have been retired after thirty years' service. Instead of being retired for disability, many of them who have been disabled have preferred, instead of going before a board when they had served thirty years in active service, to take the retirement. Now, here the committee have extended it to thirty-five years, which excludes all that class of men. If the Senator will strike out "five" I think it will cover my objection to it, but I want to look at it a little further.

Mr. ALLISON. If I understand this section, it does not apply to any officer who has hitherto been retired. It applies only to officers to be retired hereafter.

Mr. HALE. In the future.

Mr. ALLISON. In the future.

Mr. TELLER. It says:

This section shall apply to officers who have been retired on or since the 11th day of August, 1898, but shall not apply to any officer whose service on the active list does not exceed thirty-five years.

I want to strike that out.

Mr. ALLISON. I wish to make a suggestion to the committee.

Mr. TELLER. I do not desire to discuss it now, because I have an amendment to cover it.

Mr. ALLISON. I do not care to discuss it either. I wish to suggest to the committee, however, that if they insert this section it will be only a year or two until all officers who have been hitherto retired will ask to be put on the same list of retirement at a grade above the grade in which they served at the time of their retirement.

Mr. PROCTOR. There is no question but that the Senator from Iowa is strictly correct in that statement. I suggest to the Senator from Colorado that he allow the section to be perfected and then on Monday propose his entire amendment.

Mr. TELLER. I do not object to that course, but I want the Senator to go a little further. If he does not choose to do so, it may be passed over.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. On page 40, section 31, line 10, before the word "service" insert "active;" in line 11 strike out "on the active list" and insert "in the Army, exclusive of service as a cadet at the United States Military Academy;" so as to read:

But shall not apply to any officer whose active service in the Army, exclusive of service as a cadet at the United States Military Academy, does not exceed thirty-five years.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The section as amended will now be passed over. The next amendment of the Committee on Military Affairs will be stated.

The next amendment of the Committee on Military Affairs was to renumber section 38 so as to stand as section 32.

The amendment was agreed to.

The next amendment was, on page 42, to renumber section 39 so as to stand as section 33.

The amendment was agreed to.

The next amendment was to renumber section 40 so as to stand as section 34.

The amendment was agreed to.

The next amendment was, on page 43, line 4, section 34, before the word "wine," to strike out "beer;" and in line 5, after the word "any," to strike out "intoxicating liquors" and insert "distilled spirits;" so as to make the section read:

SEC. 34. The sale of or dealing in wine or any distilled spirits by any person in any post exchange or canteen or army transport, or upon any premises used for military purposes by the United States, is hereby prohibited. The Secretary of War is hereby directed to carry the provisions of this section into full force and effect.

Mr. GALLINGER. I rise to oppose this amendment; but the Senator from North Dakota is particularly interested in this question, and I know that he has an amendment which he proposes to submit to the committee amendment; so I trust that it may go over for the present.

The PRESIDING OFFICER. The Senator from New Hampshire asks that this section may be passed over. In the absence of objection that course will be pursued.

Mr. SPOONER. I send to the desk an amendment, which I ask may be printed, and which I intend to offer, to come in at the end of renumbered section 17.

The PRESIDING OFFICER. The Senator from Wisconsin gives notice of his intention to offer an amendment, which will be read for information.

The SECRETARY. It is proposed to add at the end of section 17, page 30, the following additional proviso:

Provided further, That any volunteer officer who was appointed under the provisions of existing law an additional paymaster and who is now in the service as such shall be eligible to appointment as paymaster under this act.

The PRESIDING OFFICER. The amendment will lie on the table and be printed.

Mr. TELLER. I wish to offer an amendment and have it printed and lie on the table.

The PRESIDING OFFICER. The Senator from Colorado gives notice of his purpose to offer an amendment, which will be read for information.

The SECRETARY. The following amendment is intended to be proposed by Mr. TELLER:

Amend section 29, page 38, by striking out the words "has been," in line 3, and inserting "shall be hereafter."

The PRESIDING OFFICER. The amendment will lie on the table and be printed. The next amendment of the committee will be stated.

The next amendment of the Committee on Military Affairs was, on page 43, to renumber section 41 so as to stand as section 35.

The amendment was agreed to.

The PRESIDING OFFICER. This is the last amendment of the committee except those that have been passed over for consideration at a later date. What is the pleasure of the Senate?

Mr. HAWLEY. I have an amendment here, a copy of which is pasted in the bill. I send it to the desk. It is proposed as section 36, and it is desired by the Subsistence Department and the Secretary of War. It is followed by another short section.

The PRESIDING OFFICER. The Senator from Connecticut proposes to amend by adding at the end of this bill a new section, which will be read.

The SECRETARY. It is proposed to add at the end of the bill the following:

SEC. 36. That the President be, and he is hereby, authorized to prescribe the kinds and quantities of the component article of the Army ration, and to direct the issue of substitutive equivalent articles in place of any such components whenever, in his opinion, economy and a due regard to the health and comfort of the troops may so require.

SEC. 37. That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

The amendment was agreed to.

The PRESIDING OFFICER. The first amendment of the committee which has been passed over will now be taken up.

Mr. TELLER. I wish to inquire what was done with section 34, the canteen question?

The PRESIDING OFFICER. The amendment was passed over. The first committee amendment passed over will now be reported.

The SECRETARY. On page 27 the committee propose to strike out all of section 20.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BERRY. What is section 20?

The PRESIDING OFFICER. The section will be read for information.

Mr. GALLINGER. The committee reported a substitute which ought to be read.

The PRESIDING OFFICER. The substitute will be read.

The SECRETARY. On page 27 the committee propose to strike out all of section 20, and to insert:

SEC. 16. That the grade of veterinarian of the second class in cavalry regiments, United States Army, is hereby abolished, and hereafter the two veterinarians authorized for each cavalry regiment and the one veterinarian authorized for each artillery regiment shall receive the pay and allowances of second lieutenants, mounted. Such number of veterinarians as the Secretary of War may authorize shall be employed to attend animals pertaining to the Quartermaster's or other departments not directly connected with the cavalry and artillery regiments, at a compensation not exceeding \$100 per month.

Mr. GALLINGER. Mr. President, I rise to oppose the amendment reported by the committee.

Mr. SPOONER. Mr. President—

Mr. GALLINGER. I yield to the Senator from Wisconsin.

Mr. SPOONER. Does the Senator from Connecticut [Mr. Hawley] desire to proceed further with the bill this afternoon?

Mr. HAWLEY. I desire to finish the bill.

Mr. SPOONER. It can not be done to-day.

Mr. TELLER. You can not do it to-day.

#### EXECUTIVE SESSION.

Mr. SPOONER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session, the doors were reopened.



## AGREEMENT WITH CREEK INDIANS.

Mr. PLATT of Connecticut. I ask unanimous consent that the pending business be laid aside informally and that the Senate proceed to the consideration of the bill (H. R. 11821) to ratify and confirm an agreement with the Muscogee or Creek tribe of Indians, and for other purposes.

Mr. HOAR. I hope I may have the order to include the judicial salary bill. I understand there is not to be much objection to that measure.

Mr. PLATT of Connecticut. It is very important to get this bill out of the way, it having been held a long time.

The PRESIDING OFFICER. The Senator from Connecticut asks unanimous consent that the pending order of business be laid aside informally and that the Senate proceed to the consideration of the bill indicated by him.

Mr. HOAR. What is the pending order?

The PRESIDING OFFICER. The pending order is the Army reorganization bill. Is there objection to the request of the Senator from Connecticut?

Mr. HOAR. I do not want to interfere with the Senator. I suppose it is not expected to take up the Army bill again to-day.

Mr. HALE. No.

Mr. HOAR. I should like to have unanimous consent to have the judicial bill also considered, but with the assurance of the Senator from Connecticut that this is something which requires haste I will waive it. Otherwise I would ask unanimous consent that then the judicial bill be taken up, if any time of the day be left for the purpose.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

Mr. PLATT of Connecticut. There are two of those bills I will state.

The PRESIDING OFFICER. The Chair hears no objection, and leave is granted.

Mr. HOAR. I ask unanimous consent, when that is over, if any time be left to-day, that the judicial salary bill be taken up.

Mr. PLATT of Connecticut. There are two of these agreements, one with the Creek Nation and the other with the Cherokee Nation.

Mr. HOAR. I understand.

Mr. PLATT of Connecticut. Matters have been delayed and thrown into confusion because the bills have not been acted upon.

The PRESIDING OFFICER. The Senator from Massachusetts asks unanimous consent that after the disposition of the bill which is now to be taken up and another of similar character which is to follow the bill which has been indicated by him may then be considered. Is there objection to that request?

Mr. CARTER. It being the understanding that at that time the pending order will be temporarily laid aside.

Mr. PETTIGREW. I shall object.

The PRESIDING OFFICER. Does the Senator from South Dakota object to all of the requests or to only one?

Mr. PETTIGREW. Yes; to everything that requires unanimous consent. Let us dispose of the pending bill and then take up other matters. I do not want to bind the future.

Mr. HOAR. I rose before the unanimous consent was given to insist that my request should be coupled with it as one consent. The Chair did not state it so, but on the whole I will not interfere. It has been stated the other way, and I will let it go. I will ask for it at the end of the order secured by the Senator from Connecticut.

The PRESIDING OFFICER. Does the Senator from South Dakota object to the unanimous consent asked for by the Senator from Connecticut?

Mr. HOAR. My bill has already been made a special order, and it is merely notice that it is to come up.

Mr. PETTIGREW. I do not see why it requires unanimous consent to do what the Senator from Connecticut desires.

The PRESIDING OFFICER. It requires unanimous consent or a vote of the Senate.

Mr. PLATT of Connecticut. It would lay aside the Army bill.

Mr. PETTIGREW. Let us take a vote of the Senate, then. I do not know that I object to the treaties, although I did object to one of them in committee.

The PRESIDING OFFICER. The Senator from South Dakota objects to the request of the Senator from Connecticut.

Mr. PETTIGREW. I will not have the roll called.

Mr. HOAR. The Senator from Connecticut is, I think, going to move to take up the bill, for the Army bill, of course, would be resumed instantly. The displacing of the Army bill makes no difference.

Mr. PLATT of Connecticut. I am not going to make any motion which will displace the Army bill or its consideration.

Mr. HOAR. I move to take up the judicial salary bill.

The PRESIDING OFFICER. The Senator from Massachusetts moves to take up for present consideration a bill the title of which will be read.

Mr. JONES of Arkansas. I hope the Senator from Massachusetts will not displace the proposition to take up the agreements with these two Indian tribes.

Mr. HOAR. I do not, but the Senator from Connecticut waived it. If he insists on it, I shall not make any objection.

Mr. JONES of Arkansas. Your proposition is to take up the bill to increase the salaries of the Federal judges?

Mr. HOAR. I made it because the Senator from Connecticut first waived his request. Otherwise I should not have intervened.

Mr. PLATT of Connecticut. I did not waive it, but the Senator from South Dakota has objected to it.

Mr. JONES of Arkansas. I hope the Senator from South Dakota will not object to the consideration of these agreements.

Mr. PETTIGREW. I withdraw my objection.

The PRESIDING OFFICER. The Senator from South Dakota withdraws his objection. Does the Senator from Massachusetts withdraw his motion?

Mr. HOAR. Certainly.

The PRESIDING OFFICER. The objection being withdrawn, the bill is before the Senate for its consideration, and will be read.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 11821) to ratify and confirm an agreement with the Muscogee or Creek tribe of Indians, and for other purposes, which had been reported from the Committee on Indian Affairs with amendments.

The PRESIDING OFFICER. Is it the desire of the committee that the amendments of the committee shall be acted upon as they are reached?

Mr. PLATT of Connecticut. I ask unanimous consent that the amendments of the committee may be acted upon as they are reached.

The PRESIDING OFFICER. The Senator from Connecticut asks unanimous consent that the committee amendments shall be acted upon as the bill is read. If there be no objection, that order is entered. The reading will be proceeded with.

The Secretary proceeded to read the bill. The first amendment of the Committee on Indian Affairs was, on page 8, line 20, before the words "laid out," to strike out "and" and after the words "laid out" to strike out the following:

Under rules and regulations to be prescribed by the Secretary of the Interior, into town lots, necessary streets, alleys, and parks, conforming to existing surveys, where made by the Creek Nation, as far as may be, giving to each town such territory as may be required for its present needs and reasonable prospective growth; and the surveyors shall prepare five correct plats of each town, under such rules as may be provided by the Secretary of the Interior, and forward same to said Secretary for his approval, and when approved by him he shall retain one of said plats and transmit one to the principal chief, one to the clerk of the United States court within the jurisdiction of which the town is located, one to the town authorities, and one to the Dawes Commission: *Provided*, That the survey and appraisal of the lots in the towns in the Creek Nation for which town-site commissioners have heretofore been appointed shall be prosecuted and completed by said commissions now engaged in such work under the direction of the Secretary of the Interior; but the payment of the purchase money for all lots and parcels of land shall be made and titles conveyed as provided in this agreement: *Provided further*, That the Secretary of the Interior, where, in his judgment, the public interests will be thereby subserved, may permit the authorities of any town in said nation, at the expense of the town, to survey, lay out, and plat the site thereof, subject to his supervision and approval, as in other instances.

## And to insert:

And appraised under the provisions of an act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1901, and for other purposes," approved May 31, 1900.

## The amendment was agreed to.

The next amendment was to strike out section 11, in the following words:

11. There shall be an appraisement committee appointed for each town, who shall, after survey has been completed, appraise all town lots therein at their true value at the time of appraisement, considering the location, surroundings, and advantages of the town, but not the improvements on such town site, and shall appraise the improvements on each town lot separately, and such appraisement shall be reported to the Secretary of the Interior and approved by him before becoming effective. If a majority of the members of a committee fail to agree upon the value of any lot, the value thereof shall be fixed by the Secretary of the Interior.

## The amendment was agreed to.

The next amendment was to strike out section 12, in the following words:

Each appraisement committee shall consist of one member to be appointed by the Secretary of the Interior, one by the principal chief, and one by the town authorities, neither of whom shall be interested in any town lot or lands in the town for which he is appointed, except one lot upon which he may reside. Each member of such committees shall be entitled to compensation only for the time he is actually employed in the discharge of his duties, and may at any time, for good cause, be removed by the Secretary of the Interior.

All controversies between claimants to the possession of any town lot or parcel of land in any town shall be decided by the appraisement committee. If the principal chief or town authorities fail to appoint a member of any appraisement committee, the appointment may be made by the Secretary of the Interior.

## The amendment was agreed to.

The next amendment was, in section (13) 11, page 11, line 13,

after the word "appraisement," to strike out "committee" and insert "commission;" so as to make the section read:

11. Any person in rightful possession of any town lot having improvements thereon, other than temporary buildings, fencing, and tillage, shall have the right to purchase such lot by paying one-half of the appraised value thereof; but if he shall fail within sixty days to purchase such lot and make the first payment thereon, as herein provided, the lot and improvements shall be sold at public auction to the highest bidder, under direction of the appraisement commission, at a price not less than their appraised value, and the purchaser shall pay the purchase price to the owner of the improvements, less the appraised value of the lot.

The amendment was agreed to.

The next amendment was, in section (17) 15, page 12, line 18, after the word "appraisement," to strike out "committee" and insert "commission;" so as to read:

15. When the appraisement of any town lot is made, upon which any person has improvements as aforesaid, said appraisement commission shall notify him of the amount of said appraisement, and he shall, within sixty days thereafter, make payment of 10 per cent of the amount due for the lot, as herein provided, and four months thereafter he shall pay 15 per cent additional, and the remainder of the purchase money in three equal annual installments, without interest.

The amendment was agreed to.

The next amendment was in section (20) 18, page 13, line 22, after the word "appraisement," to strike out "committee" and insert "commission;" and in line 1, page 14, after the word "said," to strike out "committee" and insert "commission;" so as to make the section read:

18. The surveyors may select and locate a cemetery within suitable distance from each town, to embrace such number of acres as may be deemed necessary for such purpose, and the appraisement commission shall appraise the same at not less than \$20 per acre, and the town may purchase the land by paying the appraised value thereof; and if any citizen have improvements thereon, other than fencing and tillage, they shall be appraised by said commission and paid for by the town. The town authorities shall dispose of the lots in such cemetery at reasonable prices, in suitable sizes for burial purposes, and the proceeds thereof shall be applied to the general improvement of the property.

The amendment was agreed to.

The next amendment was, on page 29, to strike out section 50, as follows:

50. That the Secretary of the Interior is hereby authorized and directed from time to time to provide rules and regulations for the leasing of oil, gas, coal, asphalt, and other minerals on the unallotted and unselected portion of the land within the Creek country, and all such leases shall be made by the Secretary of the Interior, and any lease for any such minerals otherwise made shall be absolutely void. No lease shall be made or renewed for a longer period than fifteen years, nor cover the mineral in more than 160 acres of land, which shall conform as nearly as possible to the surveys. Lessees shall pay on each oil, gas, coal, asphalt, or other mineral claim at the rate of \$100 per annum, in advance, for the first and second years; \$200 per annum, in advance, for the third and fourth years, and \$500, in advance, for each succeeding year thereafter, as advanced royalty on the mine or claim on which they are made. All such payments shall be a credit on royalty when each said mine is developed and operated and its production is in excess of such guaranteed annual advanced payments, and all lessees must pay said annual advanced payments on each claim, whether developed or undeveloped; and should any lessee neglect or refuse to pay such advanced annual royalty for the period of sixty days after the same becomes due and payable on any lease, the lease on which default is made shall become null and void, and the royalties paid in advance shall then become and be the money and property of the tribe: *Provided*, That nothing herein contained shall impair the rights of any holder or owner of a leasehold interest in any oil, coal rights, asphalt, or mineral which have been assented to by act of Congress, but all such interest shall continue unimpaired hereby, and shall be assured to such holders or owners by leases from the Secretary of the Interior for the term not exceeding fifteen years, but subject to payment of advance royalties as herein provided, when such leases are not operated, to the rate of royalty on coal mined, and the rules and regulations to be prescribed by the Secretary of the Interior, and preference shall be given to such parties in renewals of such leases; but if said lease covers any land which has been selected or allotted then the royalty for the part of said land so selected or allotted shall be paid to the person to whom the allotment has been made or to the person who has made the selection: *Provided further*, That when, under the customs and laws heretofore existing and prevailing in the Creek Nation, leases have been made of different groups or parcels of oil, coal, asphalt, or other mineral deposits, and possession has been taken thereunder and improvements made for the development of such oil, coal, asphalt, or other mineral deposits by lessees or their assigns, which have resulted in the production of oil, coal, asphalt, or other mineral in commercial quantities by such lessees or their assigns, such leases are hereby approved for a period of not to exceed fifteen years from the date of the lease and for not more than 160 acres of land, and such parties in possession shall be given preference in the making of new leases, in compliance with the directions of the Secretary of the Interior; and in making new leases due consideration shall be made for the improvements of such lessees, and in all cases of the leasing or renewal of leases of oil, gas, coal, asphalt, and other mineral deposits preferences shall be given to parties in possession who have made improvements. The rate of royalty to be paid by all lessees shall be fixed by the Secretary of the Interior: *Provided*, That the royalty which shall become due under the terms of leases heretofore made or under new leases made under the provisions of this act shall be paid, if on unallotted or unselected lands, to the Creek tribe; but if on allotted or selected land, then the same shall be paid to the allottee or to the member of the tribe who has made the selection: *Provided further*, That members of said tribe who have made selections or to whom allotments have been made may lease their selections or allotments for the development of oil, gas, coal, asphalt, or other mineral deposits and receive the royalty for the same, but before operations shall be begun upon the land owned or controlled by any person, for the development of oil or gas, the lessee or party operating shall pay to the allottee or owner of the said land the value of the use of the necessary surface for prospecting or mining and the damage to be done to the other land and improvements of said allottee or owner, the value to be ascertained under the direction of the Secretary of the Interior: *Provided further*, That no lease provided for in this section shall be of force or effect until the consent of the allottee is obtained in writing and until the same is approved by the Secretary of the Interior, and in no case shall the lease provided for in this section interfere

with allotments or cover the 40-acre homestead provided for in this bill, or in any case cover more land than is allotted to any one allottee, exclusive of his homestead.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

#### AGREEMENT WITH THE CHEROKEES.

Mr. PLATT of Connecticut. The same consent extends to House bill 11820.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 11820) to ratify and confirm an agreement with the Cherokee tribe of Indians, and for other purposes, which had been reported from the Committee on Indian Affairs with amendments.

The first amendment was, on page 9, section 15, line 6, after the word "surveyed," to strike out the word "and;" and in line 7, after the word "out," to strike out:

Under rules and regulations to be prescribed by the Secretary of the Interior, into town lots, necessary streets, alleys, and parks, conforming to existing surveys where made by the Cherokee Nation, as far as may be, giving to each town such territory as may be required for its present needs and reasonable prospective growth; and the surveyors shall prepare five correct plats of each town and forward same to the Secretary for his approval, and when approved by him he shall retain one of said plats and transmit one to the principal chief, one to the clerk of the United States court within the jurisdiction of which the town is located, one to the town authorities, and one to the Dawes Commission: *Provided*, That the Secretary of the Interior, where in his judgment the public interests will be thereby subserved, may permit the authorities of any town in said nation, at the expense of the town, to survey, lay out, and plat the site thereof, subject to his supervision and approval as in other instances.

And to insert:

And appraised under the provisions of an act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1901, and for other purposes," approved May 31, 1900.

So as to make the section read:

15. All towns in the Cherokee Nation having a present population of 200 or more shall be surveyed, laid out, and appraised under the provisions of an act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1901, and for other purposes," approved May 31, 1900.

The amendment was agreed to.

The next amendment was, to strike out sections 16, 17, and 18, as follows:

16. There shall be a town-site committee for each town, which shall, after survey has been completed, appraise all town lots therein at their true value at the time of appraisement, considering the location, surroundings, and advantages of the town but not the improvements erected on such town site, and shall appraise the improvements on each town lot separately; and such appraisements shall be reported to the Secretary of the Interior and approved by him before becoming effective. If a majority of the members of a committee fail to agree upon the value of any lot, the value thereof shall be fixed by the Secretary.

17. Each town-site committee shall consist of one member to be appointed by the Secretary of the Interior, one by the principal chief, and one by the town authorities, neither of whom shall be interested in any town lot or lands in the town for which he is appointed, except one lot upon which he may reside. Each member of such committee shall be entitled to compensation only for the time he is actually employed in the discharge of his duties, and he may at any time, for good cause, be removed by the Secretary of the Interior. In case the principal chief or the town authorities fail to appoint a member of any town-site committee as herein provided, then and in that event the appointment may be made by the Secretary of the Interior.

18. All controversies between claimants for the possession of any town lot or parcel of land in any town shall be decided by a majority of such town-site committee, subject to the approval of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, in section (23) 19, on page 12, line 11, after the words "approved the," to strike out "committee" and insert "commission;" and in line 21, after the word "town-site," to strike out "committee" and insert "commission;" so as to make the section read:

19. When the appraisement of any town lot so improved is made and approved the commission shall notify the claimant thereof of the amount of appraisement, and he shall, within sixty days thereafter, make payment of 10 per cent of the amount due for the lot, and four months thereafter he shall pay 15 per cent additional, and the remainder of the purchase money he shall pay in three equal annual installments without interest; but if the owner of any such lot fail to purchase same and make first and second payments aforesaid within the time aforesaid, the lot and improvements shall be sold at public auction to the highest bidder, under the direction of the town-site commission, at a price not less than their appraised value; and the purchaser shall pay the purchase price to the owner of the improvements, less the appraised value of the lot.

The amendment was agreed to.

The next amendment was, on page 15, in section 31, line 17, after the word "town-site," to strike out "committee" and insert "commission;" so as to read:

31. The town authorities may select and locate, subject to the approval of the Secretary of the Interior, a cemetery within suitable distance from each town, to embrace such number of acres as may be deemed necessary for such purpose, and the town-site commission shall appraise the same at its true value, and the town may purchase same by paying such value; and if any



citizen have improvements thereon, other than fencing and tillage, they shall be appraised by said committee and paid for by the town.

The amendment was agreed to.

The next amendment was, in section (35) 32, page 16, line 12, before the word "appointed," to strike out "committee" and insert "commission;" so as to make the section read:

32. All towns now in existence where there are two or more places of business and less than 200 inhabitants may be surveyed and laid out into town lots and necessary streets and alleys and platted as other towns, each to embrace such amount of land as may be deemed necessary, not exceeding 40 acres, which survey may be made in manner provided for other towns, and the appraisal of the town lots of said towns may be made by any commission appointed for either of the other towns having 200 inhabitants or more; and all lots in said towns having thereon improvements other than temporary buildings, fencing, and tillage may be purchased by any person having rightful possession thereof and owning the improvements thereon by paying one-half the appraised value. The survey, appraisal, and sale of lots shall be made under regulations to be prescribed by the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, on page 34, line 6, to strike out section 82, as follows:

82. That the Secretary of the Interior is hereby authorized and directed from time to time to provide rules and regulations for the leasing of oil, gas, coal, asphalt, and other minerals on the unallotted and unsettled portion of the lands within the Cherokee country, and all such leases shall be made by the Secretary of the Interior; and any lease for any such minerals otherwise made shall be absolutely void. No lease shall be made or renewed for a longer period than fifteen years, nor cover the mineral in more than 100 acres of land, which shall conform as nearly as possible to the surveys. Lessees shall pay on each oil, gas, coal, asphalt, or other mineral claim at the rate of \$100 per annum, in advance, for the first and second years; \$200 per annum, in advance, for the third and fourth years, and \$500, in advance, for each succeeding year thereafter, as advanced royalty on the mine or claim on which they are made. All such payments shall be a credit on royalty when each said mine is developed and operated and its production is in excess of such guaranteed annual advanced payments; and all lessees must pay said annual advanced payments on each claim, whether developed or undeveloped; and should any lessee neglect or refuse to pay such advanced annual royalty for the period of sixty days after the same becomes due and payable on any lease, the lease on which default is made shall become null and void, and the royalties paid in advance shall then become and be the money and property of the tribe: *Provided*, That nothing herein contained shall impair the rights of any holder or owner of a leasehold interest in any oil, coal rights, asphalt, or mineral which have been assented to by act of Congress, but all such interest shall continue unimpaired hereby, and shall be assured to such holders or owners by leases from the Secretary of the Interior for the term not exceeding fifteen years, but subject to payment of advance royalties as herein provided, when such leases are not operated, to the rate of royalty on coal mined, and the rules and regulations to be prescribed by the Secretary of the Interior, and preference shall be given to such parties in renewals of such leases, but if said lease covers any land which has been selected or allotted, then the royalty for the part of said land so selected or allotted shall be paid to the person to whom the allotments have been made or to the person who has made the selection: *Provided further*, That when under the customs and laws heretofore existing and prevailing in the Indian Territory, leases have been made of different groups or parcels of oil, coal, asphalt, or other mineral deposits, and possession has been taken thereunder and improvements made for the development of such oil, coal, asphalt, or other mineral deposits, by lessees or their assigns, which have resulted in the production of oil, gas, coal, asphalt, or other mineral in commercial quantities by such lessees or their assigns, such leases are hereby approved for a period not to exceed fifteen years from the date of the lease, and for not more than 100 acres of land, and such parties in possession shall be given preference in the making of new leases, in compliance with the directions of the Secretary of the Interior; and in making new leases due consideration shall be made for the improvements of such lessees, and in all cases of the leasing or renewal of leases of oil, coal, asphalt, and other mineral deposits preference shall be given to parties in possession who have made improvements. The rate of royalty to be paid by all lessees shall be fixed by the Secretary of the Interior: *Provided*, That the royalty which shall become due under the terms of leases heretofore made or under new leases made under the provisions of this act shall be paid, if on unallotted or unselected lands, to the Cherokee Nation, but if on allotted or selected land, then the same shall be paid to the allottee or to the member of the tribe who has made the selection: *Provided further*, That members of said tribes who have made selections, or to whom allotments have been made, may lease their selections or allotments for the development of oil, gas, coal, asphalt, or other minerals, and receive the royalty for the same, but before operations shall be begun upon the lands owned or controlled by any person for the development of oil or gas the lessee or party operating shall pay to the allottee or owner of the said land the value of the use of the necessary surface for prospecting or mining and the damage done to the other land and improvements of said allottee or owner, the value to be ascertained under the direction of the Secretary of the Interior: *Provided further*, That no lease provided for in this section shall be of force or effect until the consent of the allottee is obtained in writing and until the same is approved by the Secretary of the Interior, and in no case shall the lease provided for in this section interfere with allotments or cover the 40-acre homestead provided for in this bill, or in any case cover more land than is allotted to any one allottee, exclusive of his homestead.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

#### EMPLOYEES OF WILLIAM M. JACOBS.

Mr. PENROSE. I ask unanimous consent for the present consideration of the bill (H. R. 5324) for the relief of the employees of William M. Jacobs.

The PRESIDING OFFICER. The Senator from Pennsylvania asks unanimous consent that the Senate proceed to the consideration of the bill named by him; which will be read for the information of the Senate.

Mr. HALE. I shall not object to this bill, but the Senator from Massachusetts [Mr. HOAR] gave notice that at the end of the bills

which have been brought here by the Senator from Connecticut [Mr. PLATT] he would ask the Senate to take up the judicial salaries bill. I have sent for the Senator from Massachusetts. In his absence I shall feel constrained to object to anything else until he gets here, but I shall not object to the request of the Senator from Pennsylvania, because he is already in.

Mr. PENROSE. I ask to have the bill read, then, if there be no objection.

The PRESIDING OFFICER. The bill will be read for information, subject to objection.

The Secretary read the bill.

Mr. SPOONER. From what committee does that bill come?

The PRESIDING OFFICER. The bill was reported by the Committee on Claims.

Mr. SPOONER. I should like to have some explanation of it. Is there a report accompanying it?

Mr. PENROSE. Certainly there is. This bill has already passed the House of Representatives.

Mr. SPOONER. That may be.

Mr. PENROSE. The factory of Mr. Jacobs was seized by the United States Government and sold under process of law. The object of this bill is to pay to the employees the wages unpaid and due to the date of the seizure. The Senator from West Virginia [Mr. SCOTT] was, I believe, the Commissioner of Internal Revenue at the time of the seizure, or shortly thereafter, and he can explain the matter better than I can. The report of the Senate committee I have in my hand, which I can show to the Senator or have read. I ask to have the report read, Mr. President.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. SPOONER. I think the bill involves a principle—

Mr. PENROSE. Let the report be read.

The PRESIDING OFFICER. The report will be read for information, if there be no objection.

Mr. SPOONER. I have no objection to the reading of the report.

The Secretary read the report submitted by Mr. McCUMBER May 16, 1900, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 5324) for the relief of the employees of William M. Jacobs, have had the same under consideration and beg leave to submit as their report the report (No. 435) of the Committee on Claims of the House, adopting the same in full as the report of this committee, as follows:

"The Committee on Claims, to whom was referred the bill (H. R. 5324) for the relief of the employees of William M. Jacobs, beg leave to submit the following report and recommend that said bill do pass without amendment:

"This is a bill enacting that the Commissioner of Internal Revenue be authorized and directed to pay to the employees of William M. Jacobs who were employed between April 10, 1899, and April 19, 1899, inclusive, in his cigar factory at Lancaster, Pa., such sums of money as may be respectively due them for their labor during such period, not exceeding \$20 to any one employee and not exceeding \$2,705 for all, the said sums to be paid by the Commissioner of Internal Revenue after he shall be satisfied as to the identity of the various employees and the correctness of the respective amounts due them, and to be paid out of the moneys in the Treasury received from the sale of cigars seized in the factory of the said William M. Jacobs and forfeited for violation of the internal-revenue law.

"In the spring of 1899 William M. Jacobs, while doing business as William M. Jacobs & Co., as extensive cigar manufacturers, was found to be carrying on fraudulent operations by means of counterfeit cigar stamps. They were also engaged in counterfeiting the securities of the Government. The amount of tax upon the cigars which had been marketed by the parties under counterfeit stamps was estimated, from the best obtainable evidence, at \$143,688.49. Of this amount the sum of \$133,811.88 was assessed against them, the balance being barred by the statute of limitations from assessment. William M. Jacobs was arrested and has been criminally prosecuted and convicted. The cigar factory was seized by the collector of internal revenue, with its contents, on April 26, 1899. Seizures have also been made of the product of the Jacobs factory in various parts of the country, which product was covered by counterfeit stamps.

"The property seized in the factory of William M. Jacobs was distrained by the collector and sold. The net proceeds of this sale were \$28,200, which amount was credited to the assessment against William M. Jacobs & Co. There have also been credited amounts totaling \$2,253.31, which were received from more than fifty customers of William M. Jacobs & Co., which customers were indebted to the company for cigars purchased. Total amount secured by the Government, \$30,453.31.

"The relief asked for is for wages due to workmen and workwomen employed by William M. Jacobs & Co. up to the date of the seizure of the factory by the collector, to wit, April 26, 1899. Inasmuch as the Government has had the benefit of the labor of said employees, and the said William M. Jacobs & Co. having no property by reason of the seizure, the committee think that in equity those employed by this company, and under these circumstances, should be paid out of the moneys in the United States Treasury received from the sale of the cigars seized in the factory of William M. Jacobs & Co., as provided in the bill.

"Your committee therefore report favorably and recommend that the bill do pass."

Mr. SPOONER. Mr. President, I am rather impressed with the notion that there may be some underlying equity in the proposition contained in this bill, but it is a precedent which obviously would have very large application. As it is a House bill and the passage of it will not be endangered by a fair consideration of it in the Senate, I hope the Senator will not press it this afternoon. I do not mean by this to indicate any final objection to the bill, but it is a matter that deserves to be carefully examined—I mean with reference to the principle.

Mr. HOAR. Let it go over one day.

Mr. PENROSE. Of course I will have to let it pass over if the Senator desires.

The PRESIDING OFFICER. The bill will be passed over without losing its place on the Calendar.

#### SALARIES OF JUDGES.

Mr. HOAR. I now ask the Senate to proceed to the consideration of the bill to fix the salaries of certain judges of the United States.

Mr. QUARLES. I ask the Senator from Massachusetts to kindly yield to me.

Mr. HOAR. If the Senator will allow the bill to be taken up, I will then yield to him and to the Senator from Indiana [Mr. FAIRBANKS].

The PRESIDING OFFICER. The Senator from Massachusetts asks unanimous consent that the Senate proceed to the consideration of a bill the title of which will be stated.

The SECRETARY. A bill (S. 3450) to fix the salaries of certain judges of the United States.

The PRESIDING OFFICER. Is there objection?

Mr. PETTIGREW. I object.

Mr. HOAR. Then I move to take up the bill.

Mr. MORGAN. Is the bill not to be taken up by unanimous consent?

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PETTIGREW] objects to its consideration. The Senator from Massachusetts [Mr. HOAR] moves that the Senate proceed to the consideration of the bill the title of which has just been read. Is the Senate ready for the question?

Mr. MORGAN. I make the point of order, Mr. President.

The PRESIDING OFFICER. What point of order does the Senator make?

Mr. HOAR. I am not going to force this bill on the Senator from Alabama if, for any reason, he does not want it taken up now. So he need not resort to points of order.

Mr. MORGAN. I am not in the slightest degree opposed to the Senator's bill, but there is a certain order of business that I do not want to have interrupted by a vote of the Senate. A vote of the Senate to take up this bill will displace the Army bill absolutely, and another vote will be required on Monday to take up that bill.

The PRESIDING OFFICER. The discussion is proceeding by unanimous consent.

Mr. HOAR. May I be allowed one suggestion to the Senator and to the Chair? The Army bill is now taken up every morning after the morning hour, and there is no displacing that by any other bill.

Mr. BERRY. The Senator is mistaken. The Army bill has been taken up by a vote of the Senate, and it displaced the subsidy bill.

Mr. HOAR. I have not yet completed my sentence. The Army bill will be taken up, as a matter of course, on a motion in the morning hour on Monday, which is the legislative to-morrow. This does not interfere with it. The Army bill does not stand with any right until 2 o'clock on Monday, and long before that time we shall have had a motion to take it up, and I presume will agree to it.

The PRESIDING OFFICER. The Chair would again state that this discussion is proceeding by unanimous consent.

Mr. HOAR. Yes; and I am simply speaking to the question of order.

The PRESIDING OFFICER. A question of order has not been submitted, as the Chair understands.

Mr. HOAR. If I may be allowed to finish my sentence, I shall have finished what I had to say.

So that if the judicial-salaries bill is taken up it will not do any practical injury to the Army bill.

I will state, however, to my honorable friend from Alabama that I do not want to force this bill onto a reluctant Senator or onto any particular reluctant Senator. If he does not, for any reason, want it taken up this afternoon, I will withdraw my motion.

Mr. MORGAN. My point of order was this: The Senate was proceeding with the consideration of the Army bill, and by a unanimous-consent agreement took up the Indian contracts. Those bills have been acted on with the understanding, of course, that the Army bill was not to be superseded by anything else. Now comes a motion to take up the bill of the Senator from Massachusetts by a vote of the Senate. If that vote is in the affirmative, it will, of course, displace the Army bill, and that will make it necessary to take up the Army bill again by a vote.

Mr. HALE. Will the Senator allow me a moment?

The PRESIDING OFFICER. The Chair will again remind Senators that this discussion is proceeding by unanimous consent.

Mr. MORGAN. I was only trying to state my point of order.

The PRESIDING OFFICER. The Chair will be glad to listen to the Senator's point of order.

Mr. HALE. Let me say on the point of order that the motion of the Senator from Massachusetts is not in the slightest degree in hostility to the consideration of the Army bill. It is simply to utilize the hours this afternoon in the passage of important legislation. The Senator in charge of the Army bill stated that he did not propose to go on further this afternoon. Everybody knows that when Monday comes the Senate, by a large majority, will take up the Army bill.

Mr. HOAR. In the morning hour.

Mr. HALE. In the morning hour, directly after the routine business shall have been concluded. That bill being temporarily out of the way, if anybody objects to unanimously taking up any other bill, the only refuge is to make the motion which the Senator from Massachusetts has made to take up the bill in his charge. That will not interfere with the Army bill in the least.

Mr. BERRY. It will displace the Army bill.

Mr. PETTIGREW. I withdraw my objection, and will allow the bill to come up.

Mr. HALE. The Senator withdraws his objection. Then let the bill be taken up.

Mr. MORGAN. Do I understand now that the bill of the Senator from Massachusetts is before the Senate by unanimous consent?

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PETTIGREW] has withdrawn his objection.

Mr. HOAR. Mr. President—

Mr. MORGAN. I should like to have the floor long enough, as I have got it, to at least state my proposition. I understand, the Senator from South Dakota having withdrawn his objection, that—

Mr. BERRY. I renew the objection, I will state to the Senator before he goes any further. I object to this increase salary bill.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BERRY] objects to the consideration of the bill which the Senator from Massachusetts has asked to have taken up.

Mr. HOAR. Then I make the motion to take up the bill.

Mr. MORGAN. If the Army bill is to be displaced, I demand the regular order of business, which is the Nicaragua Canal bill.

The PRESIDING OFFICER. The regular order is the Army reorganization bill.

Mr. MORGAN. Very good.

The PRESIDING OFFICER. And that can only be displaced by a motion or by unanimous consent of the Senate.

Mr. HOAR. I make that motion.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed to the consideration of the bill the title of which has been stated. The motion is not debatable. It is the duty of the Chair to put that motion to the Senate.

Mr. HOAR. I will say that I will not ask a vote upon the judicial bill this afternoon if any single Senator objects to a vote, as I am informed that one does. So I shall not ask for a vote on it, but only that it be taken up.

Mr. MORGAN. Why does the Senator want to take it up, if there is to be no vote upon it?

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts. [Putting the question.] The "ayes" appear to prevail.

Mr. MORGAN. I call for the yeas and nays.

Mr. HOAR. I withdraw the motion.

The PRESIDING OFFICER. The Senator from Massachusetts withdraws the motion to take up the bill.

#### FREDERICK MEHRING.

Mr. QUARLES. I ask unanimous consent for the immediate consideration of the bill (H. R. 6344) to remove the charges of desertion from the records of the War Department against Frederick Mehring.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to remove the charge of desertion from the records of the War Department now standing against Frederick Mehring, late a private of Company C, Sixteenth New York Volunteer Cavalry, and grant him an honorable discharge.

Mr. BATE. Has the bill been before the Military Affairs Committee of the Senate?

Mr. QUARLES. I will say to the Senator from Tennessee that this bill, which has been passed by the House of Representatives, has been reported by the Military Affairs Committee of both Houses. It is a meritorious measure in every way.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### CALLS BY THE SENATE ON EXECUTIVE DEPARTMENTS.

Mr. FAIRBANKS obtained the floor.

Mr. BACON. Will the Senator from Indiana yield to me, that I may submit a resolution?

Mr. FAIRBANKS. Certainly.



Mr. BACON. I present a resolution, which I ask to have printed and laid over.

The PRESIDING OFFICER. The Senator from Georgia presents a resolution, which will be read for information, subject to objection.

Mr. BACON. I do not understand that anybody objects.

The PRESIDING OFFICER. No bill or resolution can be introduced at this time except by unanimous consent.

Mr. BACON. Nobody objects.

The PRESIDING OFFICER. It will be read, subject to objection.

The resolution was read, as follows:

*Resolved by the Senate.* That any and every public document, paper, or record on the files of any Department of the Government relating to any subject whatever over which Congress has any grant of power, jurisdiction, or control under the Constitution, is subject to the call or inspection of the Senate for its use in the exercise of its constitutional powers and jurisdiction.

The PRESIDING OFFICER. Is there objection to the presentation of the resolution at this time? The Chair hears none. It will be considered as introduced, and at the request of the Senator from Georgia it will go over and be printed.

#### MARION TRUST COMPANY.

Mr. FAIRBANKS. I ask unanimous consent for the present consideration of the bill (H. R. 4099) for the relief of the Marion Trust Company, administrator of the estate of Samuel Milliken, deceased.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. SPOONER. I should like to inquire of the Senator—this is a very old claim—what objection has been interposed by the Department to its adjustment?

Mr. FAIRBANKS. The facts are stated in the report which the committee make, accompanying the bill. The claim has been pending before the Department. Its payment is recommended, as I recollect, by the Post-Office Department.

Mr. KEAN. It is a very good bill. I reported it.

Mr. FAIRBANKS. I state that subject to correction, the report not being at hand at present.

Mr. SPOONER. Is the report a long one?

Mr. FAIRBANKS. There is a report, but it is not a very long one.

The PRESIDING OFFICER. Does the Senator from Wisconsin ask for the reading of the report?

Mr. SPOONER. I do.

The PRESIDING OFFICER. The report will be read.

The report submitted by Mr. KEAN June 2, 1900, was read, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 4099) for the relief of the Marion Trust Company, administrator of the estate of Samuel Milliken, deceased, having considered the same, hereby adopt House Report No. 297 as a part of this report, with the recommendation that the bill do pass.

The report is as follows:

"The Committee on War Claims, to whom was referred the bill (H. R. 4099) for the relief of the Marion Trust Company, administrator of the estate of Samuel Milliken, deceased, late of Indianapolis, Ind., for services rendered as mail contractor on route No. 9704, between Paducah, Ky., and Iuka, Miss., from April 1 to June 6, 1861, inclusive, have carefully considered the same and recommend the passage of the bill.

"The facts in this case will be found stated in a letter of the Auditor for the Post-Office Department filed with the committee, and is as follows, to wit:

"TREASURY DEPARTMENT,  
"OFFICE OF AUDITOR FOR THE POST-OFFICE DEPARTMENT,  
Washington, D. C., May 19, 1897.

"SIR: In reply to your letter of the 18th instant, relative to the claim of Mr. Samuel Milliken, of Indianapolis, Ind., for mail service performed by his father in the State of Kentucky in 1861, I have the honor to inform you that the records of this office show that Samuel Milliken, deceased, was mail contractor on route No. 9704, from Paducah, Ky., to Iuka, Miss., in 1861; that he was paid in full to March 31, 1861, and that a balance stands to his credit for service from April 1 to June 6, 1861, the date to which service has been certified, amounting to \$901.92.

"This claim was reported to Congress in 1883 for appropriation, but no provision has yet been made for its payment. Many of this class of claims were paid by the Confederate States government, but the Confederate records (mutilated) now in the custody of this office do not show, so far as they go, that any payment was made to Mr. Milliken for service under his contract with the United States.

"Reports similar to the above have been made to Hon. JESSE OVERSTREET, to Hon. GEORGE W. STEELE, House of Representatives, and to the honorable Secretary of the Treasury, December 14, 1896.

"Very respectfully,

"HENRY A. CASTLE, Auditor.

"Hon. C. W. FAIRBANKS,  
"United States Senate."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. FAIRBANKS. The bill (S. 1773) for the relief of the Marion Trust Company, administrator of the estate of Samuel Milliken, deceased, of Indianapolis, Ind., is now on the Calendar, reported from the Senate committee. The bill which has just been passed is the House bill. In order to relieve the Calendar I move that the Senate bill be indefinitely postponed.

The motion was agreed to.

#### LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. ALLISON. I ask unanimous consent that the Senate proceed to the consideration of the legislative, executive, and judicial appropriation bill, informally laying aside the regular order.

Mr. BERRY. There are some other small bills that could be passed Saturday afternoon. Will not the Senator permit us to pass a few more bills?

Mr. ALLISON. I think the best disposition of the time for two hours would be to go on with the appropriation bill. If there is any controversy over any particular amendment, I will waive its consideration. I will say to the Senator that it will greatly relieve me if I can get the bill on its way.

Mr. BERRY. I will not antagonize the chairman of the Appropriations Committee under any circumstances, but a number of Senators have had an opportunity to pass private bills, and I think late Saturday evening some others ought to have an opportunity. However, I will yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa asks unanimous consent that the Senate proceed to the consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (H. R. 12391) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. PETTIGREW. I object.

The PRESIDING OFFICER. The Senator from South Dakota objects.

#### PRODUCTION AND SALE OF MILK IN THE DISTRICT.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 4804) to regulate the production and sale of milk and cream in and for the District of Columbia.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with amendments.

The first amendment of the Committee on the District of Columbia was, in section 2, page 3, line 25, before the word "degrees," to strike out "fifty" and insert "sixty;" so as to read:

That none but pure, unadulterated milk or cream, which has been properly cooled and preserved at a temperature below 60° F., shall be brought into said District.

The amendment was agreed to.

The next amendment was, at the end of section 4, to insert the following proviso:

*Provided*, That no person shall be convicted under the provisions of this section who produces evidence satisfactory to the court before which he is tried that he did not know and could not with due diligence have obtained knowledge of the condition of the cow which rendered her unsuitable for the production of milk for sale within the provisions of this section.

The amendment was agreed to.

The next amendment was, in section 5, page 6, line 11, after the word "after," to strike out "milking" and insert "coming into his possession;" so as to make the section read:

SEC. 5. That no person shall in said District sell any milk or cream, or hold or offer any milk or cream for sale, which is not clean and wholesome and free from foreign substances, nor unless the same has been cooled immediately after coming into his possession to a temperature not exceeding 50° F., and is and has been constantly kept below such temperature, nor under any misrepresentation in respect thereof as to name or quality, or as being what the same is not as respects wholesomeness, soundness, or safety.

The amendment was agreed to.

The next amendment was, in section 13, page 10, line 8, after the word "sale," to insert:

No person shall, in the District of Columbia, have milk or cream in bottles, or other receptacles intended to be left with consumers, in or about any vehicle in which milk or cream for sale is being carried in bulk.

The amendment was agreed to.

The next amendment was, in section 23, page 14, line 24, after the word "District," to insert "at the instance of the health officer of said District;" so as to make the section read:

SEC. 23. That all prosecutions under this act shall be in the police court of said District, at the instance of the health officer of said District, upon information brought in the name of the District of Columbia and on its behalf.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### ALGODONES GRANT, IN ARIZONA.

Mr. BERRY. I ask unanimous consent for the present consideration of the bill (H. R. 11213) for the relief of occupants of lands included in the Algodones grant, in Arizona.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. SPOONER. I should like to ask the Senator from Arkansas if he does not think a part of the preamble ought to be in the body of the bill?

Mr. BERRY. This is a House measure and has passed that body. It was framed in that way. The report covers it.

Mr. SPOONER. It is very badly framed.

Mr. BERRY. I think it is entirely satisfactory to all the parties concerned. It is a just measure, to which there is no objection from any section. I hope it will pass just as it came from the House.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

EDWARD BYRNE.

Mr. SHOUP. I ask unanimous consent for the immediate consideration of the bill (S. 97) for the relief of Edward Byrne.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the President to nominate and, by and with the advice and consent of the Senate, appoint Edward Byrne, late a captain in the Tenth Regiment of Veteran Cavalry Volunteers, State of New York, a captain of cavalry in the Army of the United States, with his original rank and date of commission, to be placed upon the retired list of the Army with the rank of captain.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OMAHA NORTHERN RAILWAY COMPANY.

Mr. THURSTON. I ask unanimous consent for the present consideration of the bill (S. 4890) to amend an act entitled "An act granting the right to the Omaha Northern Railway Company to construct a railway across, and establish stations on, the Omaha and Winnebago reservations, in the State of Nebraska, and for other purposes," by extending the time for the construction of said railway.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EASTERN NEBRASKA AND GULF RAILWAY COMPANY.

Mr. THURSTON. I have one other bill of the same kind, relating to the same reservations, and I ask for its consideration at the present time. It is the bill (S. 3349) to amend an act entitled "An act granting to the Eastern Nebraska and Gulf Railway Company right of way through the Omaha and Winnebago Indian reservations, in the State of Nebraska," by extending the time for the construction of said railway.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DAUGHTERS OF THE AMERICAN REVOLUTION.

Mr. SCOTT. I ask unanimous consent to call up the bill (S. 2287) setting apart certain public grounds in the city of Washington for the use of the National Society of the Daughters of the American Revolution for the erection of a memorial building. It is a bill which the Daughters of the American Revolution are very anxious to have passed, and they have frequently called upon me and asked me to call it up.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDING OFFICER. Does the Senator desire action upon the amendment sent up by him with the bill?

Mr. SCOTT. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 2, in line 10, after the word "cease" it is proposed to insert the following proviso:

*Provided, That from and after the passage of this act no building of any kind shall be erected upon any public park or reservation in the District of Columbia, except for the use of the Government of the United States or the District of Columbia.*

Mr. ALLISON. What effect will that have upon the bill itself?

The PRESIDING OFFICER. The Chair is uncertain as to whether this is an amendment reported by the committee or an amendment intended to be offered to the bill.

Mr. ALLISON. It is a very good amendment, I will say, Mr. President.

Mr. SCOTT. It is an amendment suggested by the Senator from Missouri, who is a member of our committee.

Mr. VEST. Yes; I suggested that amendment in the Committee on Public Buildings and Grounds.

The PRESIDING OFFICER. The Committee on Public Buildings and Grounds offers the amendment.

Mr. PETTIGREW. I object to the consideration of the bill. I understand that it proposes to donate some one of the public parks to a society for the erection of a building. So far as I am concerned, I shall oppose the donation of any park for the purpose of erecting buildings.

The PRESIDING OFFICER. The Senator from South Dakota objects.

DAM ACROSS OSAGE RIVER, WARSAW, MO.

Mr. COCKRELL. I ask unanimous consent for the present consideration of the bill (H. R. 11588) permitting the building of a dam across the Osage River at the city of Warsaw, Benton County, Mo.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NATIONAL PARKS IN CALIFORNIA.

Mr. PERKINS. I ask unanimous consent to call up the bill (S. 4436) providing a means of acquiring title to two groves of Sequoia gigantea, in the State of California, with a view to making national parks thereof.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that title may be acquired by the United States for the purpose of establishing public parks or pleasure grounds for the benefit and enjoyment of the people, and for the further purpose of preserving the groves of mammoth trees, known as Sequoia gigantea, and other natural curiosities and wonders found upon the south half of section 15 and the north half of section 22, in township 5 north, range 15 east, and all of sections 29, 30, 31, and 32, in township 5 north, range 16 east, Monte Diablo meridian, in the State of California.

The bill was reported from the Committee on Public Lands with amendments.

The first amendment was, in section 3, on page 3, line 11, after the word "Interior," to strike out:

And if in his judgment the public purpose to be subserved justifies the payment of the compensation so ascertained he shall, within ninety days after such ascertainment, notify the Treasurer of the United States thereof, who shall forthwith pay into said court the compensation so to be made by the United States to the several persons in interest, and thereupon a judgment shall be.

And to insert:

Who shall transmit the same to Congress, when in session, with his recommendation. If Congress shall not act favorably thereon before final adjournment of such session, then such condemnation proceedings shall be at an end and judgment of dismissal in said condemnation proceedings be entered; but if favorable action shall be taken by Congress and upon the payment into court of the compensation to be made by the United States to the several persons in interest, judgment shall be.

The amendment was agreed to.

The next amendment was, on page 4, line 7, after the word "State," to insert the following proviso:

*Provided, That the Secretary of the Interior is authorized to purchase the said premises at a sum not exceeding \$125,000 without condemnation proceedings, in which event the sum of \$125,000, or so much thereof as may be necessary, is hereby appropriated out of any funds in the Treasury not otherwise appropriated.*

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

G. G. MARTIN.

Mr. WARREN. I desire to call up the bill (S. 2470) for the relief of G. G. Martin. It is a short bill of 4 lines.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of War to issue to G. G. Martin, late lieutenant-colonel First United States Colored Troops, an honorable discharge as of the date he left the service.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MOORES CREEK BATTLEFIELD, NORTH CAROLINA.

Mr. BUTLER. I ask unanimous consent to call up the bill (S. 2270) appropriating \$10,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina.

The bill was read, it having been reported from the Committee on the Library with an amendment, in line 5, before the word "thousand," to strike out "ten" and insert "five;" so as to read:

*Be it enacted, etc., That the Secretary of the Treasury be authorized, and he is hereby directed, to pay to the governor of the State of North Carolina the sum of \$5,000, out of any money in the Treasury not otherwise appropriated, to be by him transferred to the Moores Creek Monumental Association, incorporated by the legislature of the State of North Carolina, for the purpose of repairing the monument already erected on said battlefield and for inclosing and beautifying the same.*

Mr. HOAR. I should like to inquire of the Senator from North Carolina what battlefield that is.

Mr. BUTLER. It is a Revolutionary battlefield—Moores Creek.

Mr. HOAR. Will the Senator give us an account of the battle?

It is known probably by some other name.

Mr. BUTLER. It was one of the first encounters in the South



during the Revolutionary war. It was fought between the Tories and the American patriots, and a decisive victory was won by the patriots. What the battle of Lexington was to the northern colonies, the battle of Moores Creek was to the southern colonies.

The British were preparing to invade the province of North Carolina and to suppress the spirit of independence, which was more forward in my State, I can say with pardonable pride, than in the sister States. The Tory Highland Scotchmen living at Cross Creek, near my home, and in what was then a part of my county, under General McDonald, were endeavoring to reach the Cape Fear for a junction with Sir Henry Clinton and Lord William Campbell with a large force, who, with Lord Cornwallis, expected every hour, were to begin the subjugation of the province, when, on the 27th of February, 1776, the Tories encountered at Moores Creek Bridge, about 18 miles from Wilmington, the American forces under Colonels Caswell and Lillington. A battle ensued, the Americans being intrenched south of the bridge, and the first glorious victory was won in the South. The Americans lost but one man, the slain of the enemy being computed at 50; 850 prisoners captured, and the trophies of the day being 1,500 excellent rifles, 350 guns, 150 swords and dirks, 2 medicine chests, 13 wagons, horses, and harness, and a box of English guineas worth \$75,000.

The effect of the victory was to give to the American soldiers about to enter upon a seven years' war military experience and an intelligent confidence in themselves. It compelled the haughty oppressors to respect their skill and prowess. It frustrated the great scheme to subjugate North Carolina, and emboldened the people of this province, who already in Mecklenberg had declared their independence in mass meeting, to meet in a provincial congress on the 12th of April, 1776, and pass a unanimous resolution appointing delegates to the Continental Congress and instructing them "to concur with the delegates of the other colonies in declaring independence and forming foreign alliances," thus in advance of all the other colonies calling upon the nation—the United Provinces—to sanction by their united voice what had already been so nobly done by a portion of her citizens.

The North Carolina legislature has appropriated money to help build the monument, and besides a considerable amount has been donated by private individuals. A monument has been erected and a small part of the battlefield bought, but it is now desired to enlarge the grounds, improve and beautify them, and to repair the monument, which is in need of repair. The legislature has incorporated the Moores Creek Monumental Association, which has charge of the grounds and under whose direction the money now asked of Congress will be spent.

There are many precedents for the appropriation of money by Congress for such a purpose. I looked up fifteen or twenty such precedents and laid them before the Committee on the Library when they had the bill under consideration.

I will not take up the time of the Senate to make a further statement unless it is desired, for surely no one can oppose such a patriotic and meritorious measure, that calls for so small an appropriation.

**THE PRESIDING OFFICER.** Is there objection to the present consideration of the bill?

**MR. HOAR.** I will not object, but the State of Massachusetts has built its own monuments at Bunker Hill, Concord, Lexington, and other like places. We had some Tories, and suppressed them, too. But it is a little tough after paying all our own expenses to then pay the expenses of North Carolina. I think they ought to build their monuments also. But it is a good, patriotic purpose, and it is in the Senator's own county, and of course there ought to be a monument there, wherever the battlefield was. So I will not object.

There being no objection, the bill was considered as in Committee of the Whole.

**THE PRESIDING OFFICER.** The question is on agreeing to the amendment reported by the Committee on the Library.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill appropriating \$5,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina."

**MR. PETTIGREW.** I move that the Senate adjourn.

The motion was agreed to; and (at 3 o'clock and 25 minutes p. m.) the Senate adjourned until Monday, January 7, 1901, at 12 o'clock m.

#### CONFIRMATION.

*Executive nomination confirmed by the Senate January 5, 1901.*

**AUDITOR FOR THE WAR DEPARTMENT.**

Frederick E. Rittman, of Ohio, to be Auditor for the War Department.

#### HOUSE OF REPRESENTATIVES.

*SATURDAY, January 5, 1901.*

The House was called to order by the Clerk, Hon. ALEXANDER McDOWELL, who directed the reading of the following communication:

**SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,  
Washington, D. C., January 5, 1901.**

*To the House of Representatives:*

I hereby designate and name Mr. JOHN DALZELL, a Representative from the State of Pennsylvania, to perform the duties of the Chair during this day, January 5, 1901.

**D. B. HENDERSON,  
Speaker of the House of Representatives.**

**MR. DALZELL** accordingly took the chair as Speaker pro tempore.

Prayer was offered by the Chaplain, Rev. HENRY N. COUDEN. The Journal of the proceedings of yesterday was read and approved.

#### REAPPORTIONMENT.

**MR. HOPKINS.** Mr. Speaker, I desire to call up the apportionment bill that is under consideration.

The Clerk read the title of the bill (H. R. 12740) making an apportionment of Representatives in Congress among the several States under the Twelfth Census.

**MR. HOPKINS.** The gentleman from Maine [Mr. LITTLEFIELD] has the right to the floor this morning.

**MR. LITTLEFIELD.** Mr. Speaker, I look upon the pending measure as one of the most important that can engage the attention of the members of this House. It provides for the apportionment of Representatives, and upon that basis is fixed the membership in the electoral college and representation in the various national conventions.

I hope I may be able to approach the discussion of this question upon the basis that the House is disposed to act fairly, equitably, and justly. If the mild, courteous, disinterested, and patriotic speech of the chairman of this committee [Mr. HOPKINS] is any criterion of the real purpose of this bill, its title might well be changed so that it might read: "An act to cripple the State of Maine in her representation on the floor of this House, and incidentally to apportion Representatives in accordance with the numbers of the people elsewhere."

I am not aware, Mr. Speaker, that the State of Maine is not entitled to the same consideration in connection with this measure that she would be in connection with any other that might come before this House. I do not feel obliged to stand here in the opening of an address in connection with this great question, the purpose of which is the support of the report of the minority represented by the Burleigh bill, with any suggestion like that which the chairman was obliged to make in his speech to the House yesterday, when he stated that the committee had not been able to report a bill that would do equal and exact justice to all the States. It may well be that the chairman of the committee had so much in his mind the purpose, apparently, of this legislation that he could not prepare a bill to accomplish that result. The chairman has taken occasion to assault the State of Maine in connection with this proposition. His suggestion is that the State of Maine has not increased in her population; that she is unprogressive and behind the procession.

I submit that the facts do not warrant the assertion of the gentleman from Illinois. The State of Maine has not decreased in her population. She has not confined her population within the geographical limits of the State of Maine; but the State of Maine during the last few decades has been growing up throughout all the States of the Union. Wherever there has been occasion for development and progress, there Maine has been. Wherever there has been occasion for the manifestation of brawn and brain, there Maine has been.

**MR. HOPKINS.** Will the gentleman allow me right there?

**MR. LITTLEFIELD.** Yes.

**MR. HOPKINS.** The gentleman says I attacked Maine yesterday. Did I not state that Maine had not increased in her population to exceed 10 per cent during this period, but that her sons and daughters had populated the great West?

**MR. LITTLEFIELD.** Now, the gentleman does not wish to get uneasy so early in the discussion as this.

**MR. HOPKINS.** I am not uneasy, but I do not desire any unfairness.

**MR. LITTLEFIELD.** Yes, the gentleman did state that she had sent her sons and daughters elsewhere, and well the gentleman might state it. In the thirties a son of Maine by the name of Lovejoy went to Illinois, and there he received outrage and murder, and his blood watered the soil of Illinois.

The State of Maine does not regret the sacrifice thus made. Inasmuch as the blood of the martyrs is the seed of the church, we trust that what has been our loss is her gain. Aye, the State of Maine has sent its representatives elsewhere. Later it sent into the State of Illinois and the city of Chicago a distinguished citizen